Client Assets
Client Assets

CASS 1  Application and general provisions
  1.1 Application and purpose
  1.2 General application: who? what?
  1.3 General application: where?
  1.4 Application: particular activities
  1.5 Application: electronic media and E-Commerce

CASS 1A  CASS firm classification and operational oversight
  1A.1 Application
  1A.2 CASS firm classification
  1A.3 Responsibility for CASS operational oversight

CASS 3  Collateral
  3.1 Application and Purpose
  3.2 Requirements

CASS 5  Client money: insurance distribution activity
  5.1 Application
  5.2 Holding money as agent of an insurance undertaking
  5.3 Statutory trust
  5.4 Non-statutory client money trust
  5.5 Segregation and the operation of client money accounts
  5.6 Client money distribution
  5.7 Mandates
  5.8 Safe keeping of client's documents and other assets
  5 Annex 1 Segregation of designated investments: permitted investments, general principles and conditions (This Annex belongs to ■ CASS 5.5.14 R)

CASS 6  Custody rules
  6.1 Application
  6.2 Holding of client assets
  6.3 Depositing assets and arranging for assets to be deposited with third parties
  6.4 Use of safe custody assets
  6.6 Records, accounts and reconciliations
  6.7 Treatment of custody assets after a failure
## CASS Contents

### CASS 7  Client money rules

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.10</td>
<td>Application and purpose</td>
</tr>
<tr>
<td>7.11</td>
<td>Treatment of client money</td>
</tr>
<tr>
<td>7.12</td>
<td>Organisational requirements: client money</td>
</tr>
<tr>
<td>7.13</td>
<td>Segregation of client money</td>
</tr>
<tr>
<td>7.14</td>
<td>Client money held by a third party</td>
</tr>
<tr>
<td>7.15</td>
<td>Records, accounts and reconciliations</td>
</tr>
<tr>
<td>7.16</td>
<td>The standard methods of internal client money reconciliation</td>
</tr>
<tr>
<td>7.17</td>
<td>Statutory trust</td>
</tr>
<tr>
<td>7.18</td>
<td>Acknowledgment letters</td>
</tr>
<tr>
<td>7.19</td>
<td>Clearing member client money sub-pools</td>
</tr>
<tr>
<td>7 Annex 2</td>
<td>Client bank account acknowledgment letter template</td>
</tr>
<tr>
<td>7 Annex 3</td>
<td>Client transaction account acknowledgment letter template</td>
</tr>
<tr>
<td>7 Annex 4</td>
<td>Authorised central counterparty acknowledgment letter template</td>
</tr>
<tr>
<td>7 Annex 5</td>
<td>Guidance notes for acknowledgement letters (CASS 7.18)</td>
</tr>
<tr>
<td>7 Annex 6</td>
<td>Sub-pool disclosure document</td>
</tr>
</tbody>
</table>

### CASS 7A  Client money distribution and transfer

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>7A.1</td>
<td>Application and purpose</td>
</tr>
<tr>
<td>7A.2</td>
<td>Primary pooling events</td>
</tr>
<tr>
<td>7A.3</td>
<td>Secondary pooling events</td>
</tr>
</tbody>
</table>

### CASS 8  Mandates

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>Application</td>
</tr>
<tr>
<td>8.2</td>
<td>Definition of mandate</td>
</tr>
<tr>
<td>8.3</td>
<td>Records and internal controls</td>
</tr>
</tbody>
</table>

### CASS 9  Information to clients

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.1</td>
<td>Application</td>
</tr>
<tr>
<td>9.2</td>
<td>Prime broker's daily report to clients</td>
</tr>
<tr>
<td>9.3</td>
<td>Prime brokerage agreement disclosure annex</td>
</tr>
<tr>
<td>9.4</td>
<td>Information to clients concerning custody assets and client money</td>
</tr>
<tr>
<td>9.5</td>
<td>Reporting to clients on request</td>
</tr>
</tbody>
</table>

### CASS 10  CASS resolution pack

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.1</td>
<td>Application, purpose and general provisions</td>
</tr>
<tr>
<td>10.2</td>
<td>Core content requirements</td>
</tr>
<tr>
<td>10.3</td>
<td>Existing records forming part of the CASS resolution pack</td>
</tr>
</tbody>
</table>

### CASS 11  Debt management client money chapter

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.1</td>
<td>Application</td>
</tr>
<tr>
<td>11.2</td>
<td>Firm classification</td>
</tr>
<tr>
<td>Section 11: CASS 11</td>
<td>Topic</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------</td>
</tr>
<tr>
<td>11.3</td>
<td>Responsibility for CASS operational oversight</td>
</tr>
<tr>
<td>11.4</td>
<td>Definition of client money and the discharge of fiduciary duty</td>
</tr>
<tr>
<td>11.5</td>
<td>Organisational requirements</td>
</tr>
<tr>
<td>11.6</td>
<td>Statutory trust</td>
</tr>
<tr>
<td>11.7</td>
<td>Selecting an approved bank at which to hold client money</td>
</tr>
<tr>
<td>11.8</td>
<td>Client bank account acknowledgement letters</td>
</tr>
<tr>
<td>11.9</td>
<td>Segregation and the operation of client money accounts</td>
</tr>
<tr>
<td>11.10</td>
<td>Payments to creditors</td>
</tr>
<tr>
<td>11.11</td>
<td>Records, accounts and reconciliations</td>
</tr>
<tr>
<td>11.12</td>
<td>CASS 11 resolution pack</td>
</tr>
<tr>
<td>11.13</td>
<td>Client money distribution in the event of a failure of a firm or approved bank</td>
</tr>
</tbody>
</table>

**Annexes:**
- 11 Annex 1: CASS debt management firm client bank account acknowledgement letter template
- 11 Annex 2: Guidance notes for client bank account acknowledgement letters (CASS 11.8.5G)

<table>
<thead>
<tr>
<th>Section 12: CASS 12</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.1</td>
<td>Commodity Futures Trading Commission Part 30 exemption order</td>
</tr>
<tr>
<td>12.2</td>
<td>Application</td>
</tr>
<tr>
<td>12.2</td>
<td>Treatment of client money</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 13: CASS 13</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.1</td>
<td>Claims management: client money</td>
</tr>
<tr>
<td>13.2</td>
<td>Application</td>
</tr>
<tr>
<td>13.3</td>
<td>Organisational requirements and responsibility for CASS operational oversight</td>
</tr>
<tr>
<td>13.4</td>
<td>Statutory trust</td>
</tr>
<tr>
<td>13.5</td>
<td>Selecting an approved bank at which to hold client money</td>
</tr>
<tr>
<td>13.6</td>
<td>Client bank account acknowledgement letters</td>
</tr>
<tr>
<td>13.7</td>
<td>Segregation and the operation of client money accounts</td>
</tr>
<tr>
<td>13.8</td>
<td>Money due and payable to the firm</td>
</tr>
<tr>
<td>13.8</td>
<td>Money due to a client or third party.</td>
</tr>
<tr>
<td>13.9</td>
<td>Discharge of fiduciary duty</td>
</tr>
<tr>
<td>13.10</td>
<td>Records, accounts and reconciliations</td>
</tr>
<tr>
<td>13.11</td>
<td>Client money distribution in the event of a failure of a firm or approved bank</td>
</tr>
</tbody>
</table>

**Annexes:**
- 13 Annex 1: CASS client bank account acknowledgement letter template
- 13 Annex 2: Guidance notes for client bank account acknowledgement letters (CASS 13.5.5G)

<table>
<thead>
<tr>
<th>Section 14: CASS 14</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.1</td>
<td>Temporary permissions regime – client assets rules</td>
</tr>
<tr>
<td>14.2</td>
<td>General application</td>
</tr>
<tr>
<td>14.3</td>
<td>Temporary permission CASS firm classification</td>
</tr>
<tr>
<td>14.4</td>
<td>Temporary Permission Client Assets Return</td>
</tr>
<tr>
<td>14.5</td>
<td>Temporary permission auditor’s report</td>
</tr>
<tr>
<td>14.6</td>
<td>Client information</td>
</tr>
<tr>
<td>14.6</td>
<td>Tied agents and appointed representatives of TP firms</td>
</tr>
</tbody>
</table>

**Annexes:**
- 14 Annex 1:R Temporary permissions client asset return (TPCAR)
- 14 Annex 2:G Guidance notes for the TPCAR
## Transitional provisions and Schedules

<table>
<thead>
<tr>
<th>TP 1</th>
<th>Transitional Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sch 1</td>
<td>Record keeping requirements</td>
</tr>
<tr>
<td>Sch 2</td>
<td>Notification requirements</td>
</tr>
<tr>
<td>Sch 3</td>
<td>Fees and other required payments</td>
</tr>
<tr>
<td>Sch 4</td>
<td>Powers exercised</td>
</tr>
<tr>
<td>Sch 5</td>
<td>Rights of actions for damages</td>
</tr>
<tr>
<td>Sch 6</td>
<td>Rules that can be waived</td>
</tr>
</tbody>
</table>
Chapter 1

Application and general provisions
1.1 Application and purpose

Application

1.1.1 CASS applies to a firm as specified in the remainder of this chapter.

Purpose

1.1.2 The purpose of this chapter is to set out to whom, for what activities, and within what territorial limits the rules, evidential provisions and guidance in CASS apply.
1.2 General application: who? what?

General application: who?

1.2.1 The rules in CASS 1.2 set out the maximum scope of this sourcebook. The application of CASS is modified for certain activities by CASS 1.4. Also particular chapters or sections of CASS may have provisions which limit their application.

1.2.2 CASS applies to every firm, except as provided for in CASS 1.2.3 R, with respect to the carrying on of:

(1) all regulated activities except to the extent that a provision of CASS provides for a narrower application; and

(2) unregulated activities to the extent specified in any provision of CASS.

1.2.3 CASS does not apply to an ICVC.

1.2.4 With the exception of this chapter and the insurance client money chapter, CASS does not apply to:

(1) an authorised professional firm with respect to its non-mainstream regulated activities; or

(2) the Society.

1.2.5 The insurance client money chapter does not apply to an authorised professional firm with respect to its non-mainstream regulated activities, which are insurance distribution activities, if:

(1) the firm's designated professional body has made rules which implement article 10.6 of the IDD;

(2) those rules have been approved by the FCA under section 332(5) of the Act; and

(3) the firm is subject to the rules in the form in which they were approved.
1.2.5A  G  (1) In the client money chapter and the insurance client money chapter, an insurance undertaking acts as such when it carries on the business of effecting or carrying out contracts of insurance.

(2) An insurance undertaking does not act as such when it enters into a reinsurance contract as a client of the reinsurer.

1.2.6  G  [deleted]

General application: what?

1.2.7  G  (1) [deleted]

(2) [deleted]

(3) [deleted]

(3A) [deleted]

(4) [deleted]

(5) [deleted]

(6) [deleted]

(7) The debt management client money chapter applies to CASS debt management firms receiving or holding client money for, or on behalf of, a client in the course of or in connection with debt management activity.

Application for retail clients, professional clients and eligible counterparties

1.2.8  G  (1) CASS applies directly in respect of activities conducted with or for all categories of clients.

(2) [deleted]

(3) The insurance client money chapter does not generally distinguish between different categories of client. However, the term consumer is used for those to whom additional obligations are owed, rather than the term retail client. This is to be consistent with the client categories used in the Insurance: New Conduct of Business sourcebook.

(4) Each provision in the collateral rules, custody chapter, the client money chapter and CASS 9 (Information to clients) makes it clear whether it applies to activities carried on for retail clients, professional clients or both.

(4A) There is no further modification of the rules in the chapters referred to in (4) for activities carried on for eligible counterparties. Such
clients are treated in the same way as other professional clients for the purposes of these rules.

(5) The debt management client money chapter generally applies in respect of relevant dealings with the client category known as customers. In general, the client categories of retail clients, professional clients, as well as eligible counterparties, have no relevance to credit-related regulated activities, including debt management activities.

1.2.9 [deleted]

Application for affiliates

1.2.9A [deleted]

(1) The fact that a firm’s client is an affiliated company for MiFID business does not affect the operation of CASS to the firm in relation to that client.

(2) For business that is not MiFID business, the operation of the custody chapter or the client money chapter may differ if a firm’s client is an affiliated company and depending on certain other conditions (see, for example, ■ CASS 6.1.10B R and ■ CASS 7.10.26 R).

Investments and money held under different regimes

1.2.10 [deleted]

1.2.11 [deleted]

(1) A firm must not keep money in respect of which any one of the following chapters applies in the same client bank account or client transaction account as money in respect of which another of the following chapters applies:

(a) the client money chapter;
(b) the insurance client money chapter;
(c) the debt management client money chapter.

(2) In accordance with ■ CASS 7.10.36 R, a firm which is subject to the client money chapter and holds money both (i) in its capacity as a trustee firm and (ii) other than in its capacity as a trustee firm must not keep money held in its capacity as a trustee firm in the same client bank account or client transaction account as money held other than in its capacity as a trustee firm.

(3) To the extent that the restriction under (1) or (2) applies to a firm, the client bank accounts and client transaction accounts that a firm holds in respect of different chapters or in its different capacities (as the case may be) must be separately designated.

1.2.12 [deleted]

The purpose of the rules regarding the segregation of investments and money held under different regimes is to reduce the risk of confusion between assets held under different regimes either on an on-going basis or on the failure of a firm or a third party holding those assets.
1.2.13 A firm may, where permitted by the relevant rules, opt to hold under a single chapter money that would otherwise be held under different chapters (see CASS 7.10.3 R and CASS 7.10.30 R). However, making such an election does not remove the requirement under CASS 1.2.11 R (1).
1.3  General application: where?

1.3.1  G  The rules in CASS 1.3 set out the maximum territorial scope of this sourcebook. Particular rules may have express territorial limitations.

UK establishments: general

1.3.2  R  CASS 1 to CASS 13 apply to every firm, in relation to regulated activities carried on by it from an establishment in the United Kingdom.

1.3.2A  G  The territorial scope of CASS 14 is set out at CASS 14.1.6R.

1.3.3  R  [deleted]

1.3.4  R  [deleted]
1.4 Application: particular activities

Occupational pension scheme firms (OPS firms)

1.4.1 R

In the case of OPS activity undertaken by an OPS firm, CASS applies with the following general modifications:

(1) references to customer are to the OPS or welfare trust, whichever fits the case, in respect of which the OPS firm is acting or intends to act, and with or for the benefit of which the relevant activity is to be carried on; and

(2) if an OPS firm is required by any rule in CASS to provide information to, or obtain consent from, a customer, that firm must ensure that the information is provided to, or consent obtained from, each of the trustees of the OPS or welfare trust in respect of which that firm is acting, unless the context requires otherwise.

Stock lending activity with or for clients

1.4.2 G

(1) The custody chapter and the client money chapter apply in respect of any stock lending activity that is undertaken with or for a client by a firm.

(2) The collateral rules apply, where relevant, in respect of stock lending activity.

Corporate finance business

1.4.3 G

(1) The custody chapter and the client money chapter apply in respect of corporate finance business that is undertaken by a firm.

(2) The collateral rules apply, where relevant, in respect of corporate finance business.

Oil market activity and energy market activity

1.4.4 G

(1) The custody chapter and the client money chapter apply in respect of oil market activity and other energy market activity that is undertaken by a firm.

(2) The collateral rules apply, where relevant, in respect of energy market activity.
Appointed representatives and tied agents

1.4.5 Although CASS does not apply directly to a firm’s appointed representatives, a firm will always be responsible for the acts and omissions of its appointed representatives in carrying on business for which the firm has accepted responsibility (section 39(3) of the Act). In determining whether a firm has complied with any provision of CASS, anything done or omitted by a firm’s appointed representative (when acting as such) will be treated as having been done or omitted by the firm (section 39(4) of the Act). Equally, CASS does not apply directly to tied agents. A MiFID investment firm will be fully and unconditionally responsible for the acts and omission of the tied agents that it appoints.

(2) Firms should also refer to SUP 12 (Appointed representatives), which sets out requirements which apply to firms using appointed representatives and tied agents.

Depositaries

1.4.6 The client money chapter does not apply to a depositary when acting as such.

1.4.6A Firms acting as trustee or depositary of an AIF are reminded of the obligations in FUND 3.11 (Depositaries) and Chapter IV (Depositary) of the AIFMD level 2 regulation which apply in addition to those in CASS.

1.4.6B Firms acting as trustee or depositary of a UK UCITS are reminded of the obligations in COLL 6.6B (UCITS depositaries) and in the UCITS level 2 regulation, which apply in addition to those in CASS.

1.4.7 Subject to CASS 1.4.6 R, CASS applies to a depositary, when acting as such, with the following general modifications: ‘client’ means ‘trustee’, ‘trust’, ‘AIF’, ‘AIFM acting on behalf of the AIF’, ‘UCITS scheme’, ‘authorised fund manager acting on behalf of the UCITS scheme’, or ‘collective investment scheme’, as appropriate.

1.4.8 [deleted]

1.4.8A (1) The application of CASS for a trustee firm acting as a depositary is set out in CASS 1.4.6 R and CASS 1.4.7 R.

(2) The application of CASS for a trustee firm that is not acting as a depositary is limited as follows:

(a) the mandate rules apply;

(b) for MiFID business, the custody chapter and the client money chapter apply; and

(c) for business that is not MiFID business, the custody chapter and the client money chapter apply only to trustee firms acting as trustees of personal pension schemes or stakeholder pension schemes, including SIPPs.
(3) To the extent that CASS applies to a trustee firm, it applies with the following general modification: 'client' means 'relevant trustee', 'trust', or 'beneficiary', as appropriate.

Auction regulation bidding

1.4.9  [deleted]

1.4.10  [deleted]

1.4.11  [deleted]

1.4.12  [deleted]

1.4.13  [deleted]

1.4.14  [deleted]

Debt management activities

1.4.15  (1) The debt management client money chapter applies to CASS debt management firms receiving or holding client money.

(2) The mandate rules apply, where relevant, to CASS debt management firms carrying on debt management activity.
1.5 Application: electronic media and E-Commerce

Application to electronic media

1.5.1 GEN 2.2.14 R (References to writing) has the effect that electronic media may be used to make communications that are required by the Handbook to be "in writing" unless a contrary intention appears.

1.5.2 For any electronic communication with a customer, a firm should:

(1) have in place appropriate arrangements, including contingency plans, to ensure the secure transmission and receipt of the communication; it should also be able to verify the authenticity and integrity of the communication; the arrangements should be proportionate and take into account the different levels of risk in a firm's business;

(2) be able to demonstrate that the customer wishes to communicate using this form of media; and

(3) if entering into an agreement, make it clear to the customer that a contractual relationship is created that has legal consequences.

1.5.3 Firms should note that GEN 2.2.14 R does not affect any other legal requirement that may apply in relation to the form or manner of executing a document or agreement.

1.5.4 [deleted]
Chapter 1A

CASS firm classification and operational oversight
(1) Subject to (2), (3) and (4), this chapter applies to a firm to which either or both of CASS 6 (Custody rules) and CASS 7 (Client money rules) applies.

(2) In relation to a firm to which CASS 5 (Client money: insurance distribution activity) and CASS 7 (Client money rules) apply, this chapter does not apply in relation to client money that a firm holds in accordance with CASS 5.

(3) The rules and guidance in CASS 1A.2 apply to a firm even if at the date of the determination or, as the case may be, the notification, either or both of CASS 6 and CASS 7 do not apply to it, provided that:
   (a) either or both of those chapters applied to it during part or all of the previous calendar year; or
   (b) it projects that either or both will apply to it in the current calendar year.

(4) This chapter does not apply to a firm to which only CASS 6 applies, applied or is projected to apply, merely because:
   (a) it is, was, or is projected to be a firm which arranges safeguarding and administration of assets; or
   (b) when acting as a small AIFM and in relation to excluded custody activities, it would be, would have been or would be projected to be a firm which arranges safeguarding and administration of assets but for the exclusion in article 72AA of the RAO.

The rules and guidance in CASS 1A.2 (CASS firm classification) do not apply to a firm following its failure.
1A.2 CASS firm classification

1A.2.1 The application of certain rules in this chapter depends upon the ‘CASS firm type’ within which a firm falls. The ‘CASS firm types’ are defined in accordance with CASS 1A.2.7 R. The ‘CASS firm type’ within which a firm falls is also used to determine whether it is required to have the CASS operational oversight function described in CASS 1A.3.1A R and whether the reporting obligations in SUP 16.14 (Client money and asset return) apply to it.

1A.2.2 (1) A firm must once every year, and by the time it is required to make a notification in accordance with CASS 1A.2.9R (4), determine whether it is a CASS large firm, CASS medium firm or a CASS small firm according to the amount of client money or safe custody assets which it holds, using the limits set out in the table in CASS 1A.2.7 R.

(2) For the purpose of determining its ‘CASS firm type’ in accordance with CASS 1A.2.7 R, a firm must:

(a) if it currently holds client money or safe custody assets, calculate the higher of the highest total amount of client money and the highest total value of safe custody assets held during the previous calendar year ending on 31 December and use that figure to determine its ‘CASS firm type’;

(b) if it did not hold client money or safe custody assets in the previous calendar year but projects that it will do so in the current calendar year, calculate the higher of the highest total amount of client money and the highest total value of safe custody assets that it projects that it will hold during that year and use that figure to determine its ‘CASS firm type’; but

(c) in either case, exclude from its calculation any client money held in accordance with CASS 5 (Client money: insurance distribution activity) or CASS 13 (Claims management: client money).

1A.2.3 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 calendar year a firm must:

(1) in complying with CASS 1A.2.2R (2)(a), base its calculation upon internal reconciliations performed during the previous year;

(2) 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 assets into sterling at the previous day’s closing spot exchange rate; and
(3) in relation to safe custody assets only, calculate their total value using
the previous day's closing mark to market valuation, or if in relation
to a particular safe custody asset none is available, the most recent
available valuation.

One of the consequences of CASS 1A.2.2 R is that a firm that determines
itself to be a CASS small firm or a CASS medium firm will, at least if it
exceeds during the course of a calendar year either of the limits in
CASS 1A.2.7 R that applies to it, become in the next calendar year:

(1) in the case of a CASS small firm, a CASS medium firm or a CASS large
firm; and

(2) in the case of a CASS medium firm, a CASS large firm.

Notwithstanding CASS 1A.2.2 R, provided that the conditions in (2)
are satisfied a firm may elect to be treated:

(a) as a CASS medium firm, in the case of a firm that is classed by the
application of the limits in CASS 1A.2.7 R as a CASS small firm;
and

(b) as a CASS large firm, in the case of a firm that is classed by the
application of the limits in CASS 1A.2.7 R as a CASS medium firm.

The conditions to which (1) refers are that in either case:

(a) the election is notified to the FCA in writing;

(b) the notification in accordance with (a) is made at least one week
before the election is intended to take effect; and

(c) the FCA has not objected.

CASS 1A.2.5 R provides a firm with the ability to opt in to a higher category
of ‘CASS firm type’. This may be useful for a firm whose holding of client
money and safe custody assets is near the upper categorisation limit for a
CASS small firm or a CASS medium firm.

CASS firm types

<table>
<thead>
<tr>
<th>CASS firm type</th>
<th>Highest total amount of client money held during the firm’s last calendar year or as the case may be that it projects that it will hold during the current calendar year</th>
<th>Highest total value of safe custody assets held by the firm during the firm’s last calendar year or as the case may be that it projects that it will hold during the current calendar year</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS large firm</td>
<td>more than £1 billion</td>
<td>more than £100 billion</td>
</tr>
<tr>
<td>CASS medium firm</td>
<td>an amount equal to or greater than £1 million and less than or equal to £1 billion</td>
<td>an amount equal to or greater than £10 million and less than or equal to £100 billion</td>
</tr>
<tr>
<td>CASS small firm</td>
<td>less than £1 million</td>
<td>less than £10 million</td>
</tr>
</tbody>
</table>
1A.2.9 R  Once every calendar year a firm must notify to the FCA in writing the information specified in (1), (2) or (3) as applicable, and the information specified in (4), in each case no later than the day specified in (1) to (4):

1. if it held client money or safe custody assets in the previous calendar year, the highest total amount of client money and the highest total value of safe custody assets held during the previous calendar year, notification of which must be made no later than the fifteenth business day of January; or

2. if it did not hold client money or safe custody assets in the previous calendar year but at any point up to the fifteenth business day of January the firm projects that it will do so in the current calendar year, the highest total amount of client money and the highest total value of safe custody assets that the firm projects that it will hold during the current calendar year, notification of which must be made no later than the fifteenth business day of January; or

3. in any other case, the highest total amount of client money and the highest total value of safe custody assets that the firm projects that it will hold during the remainder of the current calendar year, notification of which must be made no later than the business day before the firm begins to hold client money or safe custody assets; and

4. in every case, of its ‘CASS firm type’ classification, notification of which must be made at the same time the firm makes the notification under (1), (2) or (3).

1A.2.10 R  For the purpose of the annual notification to which 1A.2.9 R refers, a firm must apply the calculation rule in 1A.2.3 R.

1A.2.11 G  For the purpose of 1A.2.9 R (1), the FCA will treat that obligation as satisfied if a firm submitted a CMAR for each period within the previous calendar year in compliance with SUP 16.14.3 R.

1A.2.12 R  A firm’s ‘CASS firm type’ and any change to it takes effect:

1. if the firm notifies the FCA in accordance with 1A.2.9 R (1) or 1A.2.9 R (2), on 1 February following the notification; or

2. if the firm notifies the FCA in accordance with 1A.2.9 R (3), on the day it begins to hold client money or safe custody assets; or

3. if the firm makes an election under 1A.2.5 R (1), and provided the conditions in 1A.2.5 R (2) are satisfied, on the day the notification made under 1A.2.5 R (2)(a) states that the election is intended to take effect.
1A.2.13  G  Any written notification made to the FCA under this chapter should be marked for the attention of: "Client Assets Firm Classification".
1A.3 Responsibility for CASS operational oversight

1A.3.1 (1) A CASS small firm must allocate to a single director or senior manager of sufficient skill and authority responsibility for:

(a) oversight of the firm’s operational compliance with CASS; and

(b) reporting to the firm’s governing body in respect of that oversight.

(2) [deleted]

[Note: article 7, first paragraph of the MiFID Delegated Directive]

1A.3.1-A The material in CASS 1A.3.1BG about how CASS 1A.3 fits into the FCA senior managers and certification regime for SMCR firms also applies to a CASS small firm that is an SMCR firm and the function in CASS 1A.3.1R.

1A.3.1A A CASS medium firm and a CASS large firm must allocate to a single director or senior manager of sufficient skill and authority the function of:

(1) oversight of the operational effectiveness of that firm’s systems and controls that are designed to achieve compliance with CASS;

(2) reporting to the firm’s governing body in respect of that oversight; and

(3) completing and submitting a CMAR to the FCA in accordance with SUP 16.14.

[Note: article 7, first paragraph of the MiFID Delegated Directive]

1A.3.1B (1) (a) This paragraph CASS 1A.3.1BG describes how CASS 1A.3.1AR applies to SMCR firms.

(b) The function in CASS 1A.3.1AR is not a separate controlled function and performing that function does not require approval as an approved person.

(c) However, nothing in paragraphs (1A) to (4) affects the requirement for the function in CASS 1A.3.1AR to be allocated to a single director or senior manager of sufficient skill and authority in accordance with CASS 1A.3.1AR and CASS 1A.3.2AR.
(1A) There are three elements of the regime for SMCR firms that are particularly relevant to CASS 1A, although they do not all apply to all SMCR firms:

(a) a firm’s obligation to allocate certain responsibilities to its SMF managers (see SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities));

(b) a firm’s obligation to ensure that one or more of its SMF managers have overall responsibility for each of its activities, business areas and management functions (see SYSC 26 (Senior managers and certification regime: Overall and local responsibility)); and

(c) the certification regime (the certification regime is explained in SYSC 27 (Senior managers and certification regime: Certification regime) and SYSC TP 7 (Bank of England and Financial Services Act 2016: Certification and regulatory references) explains that the certification regime comes into force sometime after other parts of the senior managers and certification regime).

(2) (a) This paragraph (2) explains how CASS 1A.3.1AR applies to an SMCR firm to which SYSC 24 and SYSC 26 both apply.

(b) The firm must allocate responsibility for the firm’s compliance with CASS to one of its SMF managers (see SYSC 24.2.1R). That responsibility is an “FCA-prescribed senior management responsibility”. The full list of FCA-prescribed senior management responsibilities is in the table in SYSC 24.2.6R.

(c) Although the CASS function in SYSC 24.2.1R is different from the function in CASS 1A.3.1AR, the firm may allocate the function in CASS 1A.3.1AR to the SMF manager in (b).

(d) The firm may allocate the CASS FCA-prescribed senior management responsibility described in (b) to an SMF manager who does not perform any other function coming within the FCA regime for SMF managers in SMCR firms. See SUP 10C.7 (Other overall responsibility function (SMF18)) and SUP 10C.8.1R (Other local responsibility function (SMF22)) for details. Where this is the case, the manager will be performing the other overall responsibility function or the other local responsibility function.

(e) The firm may choose to allocate the function in CASS 1A.3.1AR to someone who is not an approved person and SMF manager. If so:

(i) that person will be subject to the employee certification regime described in SYSC 27 (Senior managers and certification regime: (Certification Regime);
Section 1A.3 : Responsibility for CASS classification and operational oversight

(ii) that person will be subject to supervision by the SMF manager in (b); and

(iii) the function in CASS 1A.3.1AR will be the CASS oversight FCA certification function in SYSC 27.8.1R.

(3) In relation to an SMCR firm to which SYSC 24 applies but SYSC 26 does not apply, the guidance in sub-paragraphs (2)(b), (2)(c), and (2)(e) applies, but the guidance in sub-paragraph (2)(d) does not apply.

(4) (a) The position of an SMCR firm to which neither SYSC 24 nor SYSC 26 apply is slightly different.

(b) The firm may choose to allocate the function in CASS 1A.3.1AR to an SMF manager.

(c) The firm may instead choose to allocate the function in CASS 1A.3.1AR to someone who is not an SMF manager.

(d) Where (c) applies, the person performing the function in CASS 1A.3.1AR will fall into the certification regime. The function in CASS 1A.3.1AR will be the CASS oversight FCA certification function in SYSC 27.8.1R.

1A.3.1C [deleted]

1A.3.1D [deleted]

1A.3.2 [deleted]

1A.3.2A Where a firm allocates the responsibilities in CASS 1A.3.1R or CASS 1A.3.1AR (“the CASS oversight responsibilities”) to a director or senior manager (“P”), the firm must not allocate any other responsibilities to P in addition to the CASS oversight responsibilities, unless the firm is satisfied on reasonable grounds that:

(1) P will still be able to discharge the CASS oversight responsibilities effectively; and

(2) the firm’s full compliance with CASS will not be compromised.

[Note: article 7, second paragraph of the MiFID Delegated Directive]

1A.3.2B A firm may allow the CASS oversight responsibilities to be shared amongst one or more directors or senior managers where this is done as part of a job share between those persons.

1A.3.3 (1) Subject to (2), a firm must make and retain an appropriate record of the person to whom responsibility is allocated in accordance with CASS 1A.3.1 R or CASS 1A.3.1A R.
(2) A CASS small firm must make and retain such a record only where it allocates responsibility to a person other than the person in that firm who performs the compliance oversight function.

(3) A firm must ensure that the record made under this rule is retained for a period of five years after it is made.
3.1 Application and Purpose

Application

3.1.1 R This chapter applies to a firm when it receives or holds assets in connection with an arrangement to secure the obligation of a client in the course of, or in connection with, its designated investment business, including MiFID business.

3.1.2 G Firms are reminded that the application of this chapter is also dependent on the location from which the activity is undertaken (see CASS 1.3.2R).

3.1.3 R This chapter does not apply to a firm that has only a bare security interest (without rights to hypothecate) in the client's asset. In such circumstances, the firm must comply with the custody rules or client money rules as appropriate.

3.1.4 G For the purpose of this chapter only, a bare security interest in the client's asset gives a firm the right to realise the assets only on a client's default and without the right to use other than in default.

Purpose

3.1.5 G The purpose of this chapter is to ensure that an appropriate level of protection is provided for those assets over which a client gives a firm certain rights. The arrangements covered by this chapter are those under which the firm is given a right to use the asset, and the firm treats the asset as if legal title and associated rights to that asset had been transferred to the firm subject only to an obligation to return equivalent assets to the client upon satisfaction of the client's obligation to the firm. The rights covered in this chapter do not include those arrangements by which the firm has only a bare security interest in the client's asset (in which case the custody rules or client money rules apply).

3.1.6 G Examples of the arrangements covered by this chapter include the taking of collateral by a firm, under the ISDA English Law (transfer of title) and the New York Law Credit Support Annexes (assuming the right to rehypothecate has not been disappplied).
This chapter recognises the need to apply a differing level of regulatory protection to the assets which form the basis of the two different types of arrangement described in CASS 3.1.5 G. Under the bare security interest arrangement, the asset continues to belong to the client until the firm’s right to realise that asset crystallises (that is, on the client's default). But under a "right to use arrangement", the client has transferred to the firm the legal title and associated rights to the asset, so that when the firm exercises its right to treat the asset as its own, the asset ceases to belong to the client and in effect becomes the firm’s asset and is no longer in need of the full range of client asset protection. The firm may exercise its right to treat the asset as its own by, for example, clearly so identifying the asset in its own books and records.

Firms are reminded of the client's best interests rule which requires a firm to act honestly, fairly and professionally, in accordance with the best interests of its clients, when agreeing to, entering into, exercising its rights under and fulfilling its obligations under an arrangement covered by this chapter, and when structuring its business to include such arrangements.

A prime brokerage firm is reminded of the additional obligations in CASS 9.3.1R which apply to prime brokerage agreements.
### 3.2 Requirements

#### Application

**3.2.1** [deleted]

**3.2.2** A *firm* that receives or holds a *client's* assets under an arrangement to which this chapter applies and which exercises its right to treat the assets as its own must ensure that it maintains adequate records to enable it to meet any future obligations including the return of equivalent assets to the *client*.

**3.2.3** If the *firm* has the right to use the *client's* asset under a "right to use arrangement" but has not yet exercised its right to treat the asset as its own, the *client money rules* or the *custody rules* will continue to apply as appropriate until such time as the *firm* exercises its right, at which time **CASS 3.2.2 R** will apply.

**3.2.4** When appropriate, *firms* that enter into the arrangements with *retail clients* covered in this chapter will be expected to identify in the statement of *custody assets* sent to the *client* in accordance with **COBS 16.4** (Statements of client designated investments or client money), article 63 of the *MiFID Org Regulation* (see **COBS 16A.5** or **CASS 9.5** (Reporting to clients on request) details of the assets which form the basis of the arrangements. Where the *firm* utilises global netting arrangements, a statement of the assets held on this basis will suffice.
Chapter 5

Client money: insurance distribution activity
5.1 Application

(1) CASS 5.1 to 5.6 apply, subject to (2), (3) and CASS 5.1.3 R to 5.6 R, to a firm that receives or holds money in the course of or in connection with its insurance distribution activity.

(2) CASS 5.1 to 5.6 do not, subject to (3), apply:
   (a) to a firm to the extent that it acts in accordance with the client money chapter; or
   (b) [deleted]
   (c) to an insurance undertaking in respect of its permitted activities; or
   (d) to a managing agent when acting as such; or
   (e) with respect to money held by a firm which:
      (i) is an approved bank; and
      (ii) has requisite capital under article 10(6)(b) of the IDD; but only when held by the firm in an account with itself, in which case the firm must notify the client (whether through a client agreement, terms of business, or otherwise in writing) that:
      (iii) money held for that client in an account with the approved bank will be held by the firm as banker and not as trustee (or in Scotland as agent); and
      (iv) as a result, the money will not be held in accordance with CASS 5.1 to 5.6.

(3) A firm may elect to comply with:
   (a) [deleted]
   (b) CASS 5.1, 5.2 and 5.4 to 5.6 in respect of money which it receives in the course of carrying on an activity which would be insurance distribution activity, and which money would be client money, but for article 72D of the Regulated Activities Order (Large risks contracts where risk situated outside the EEA);
but the election must be in respect of all the firm's business which consists of that activity.

(4) A firm must keep a record of any election in (3).

5.1.2 A firm that is an approved bank, and relies on the exemption under CASS 5.1.1 R (2)(e), should be able to account to all of its clients for amounts held on their behalf at all times. A bank account opened with the firm that is in the name of the client would generally be sufficient. When money from clients deposited with the firm is held in a pooled account, this account should be clearly identified as an account for clients. The firm should also be able to demonstrate that an amount owed to a specific client that is held within the pool can be reconciled with a record showing that individual's client balance and is, therefore, identifiable at any time.

5.1.3 An authorised professional firm regulated by The Law Society (of England and Wales), The Law Society of Scotland or The Law Society of Northern Ireland that, with respect to its regulated activities, is subject to the rules of its designated professional body as specified in CASS 5.1.4 R, in force on 14 January 2005, must comply with those rules and if it does so, it will be deemed to comply with CASS 5.2 to CASS 5.6.

5.1.4 For the purposes of CASS 5.1.3 R the relevant rules are:

(1) If regulated by the Law Society (of England and Wales);
   (a) the Solicitors' Accounts Rules 1998; or
   (b) where applicable, the Solicitors Overseas Practice Rules 1990;

(2) if regulated by the Law Society of Scotland, the Solicitors' (Scotland) Accounts, Accounts Certificate, Professional Practice and Guarantee Fund Rules 2001;

(3) if regulated by the Law Society of Northern Ireland, the Solicitors' Accounts Regulations 1998.

5.1.4A (1) A firm will, subject to (3), be deemed to comply with CASS 5.3 to CASS 5.6 if it receives or holds client money and it either:

(a) in relation to a service charge, complies with the requirement to segregate such money in accordance with section 42 of the Landlord and Tenant Act 1987 (“the 1987 Act”); or

(b) in relation to money which is clients' money for the purpose of the Royal Institution of Chartered Surveyors' Rules of Conduct (“RICS rules”) in force as at 14 January 2005, it complies with the requirement to segregate and account for such money in accordance with the RICS Members' Accounts rules.

(2) Paragraph (1)(a) also applies to a firm in Scotland or in Northern Ireland if in acting as a property manager the firm receives or holds a service charge and complies (so far as practicable) with section 42 of the 1987 Act as if the requirements of that provision applied to it.
(3) In addition to complying with (1), a firm must ensure that an account in which money held pursuant to the trust fund mentioned in section 42(3) of the 1987 Act or an account maintained in accordance with the RICS rules satisfies the requirements in CASS 5.5.49 R to the extent that the firm will hold money as trustee or otherwise on behalf of its clients.

5.1.5 Subject to CASS 5.1.5A R money is not client money when:

(1) it becomes properly due and payable to the firm:
   (a) for its own account; or
   (b) in its capacity as agent of an insurance undertaking where the firm acts in accordance with CASS 5.2; or

(2) it is otherwise received by the firm pursuant to an arrangement made between an insurance undertaking and another person (other than a firm) by which that other person has authority to underwrite risks, settle claims or handle refunds of premiums on behalf of that insurance undertaking outside the United Kingdom and where the money relates to that business.

5.1.5A ■ CASS 5.1.5 R (1)(b) and ■ CASS 5.1.5 R (2) do not apply, and hence money is client money, in any case where:

(1) in relation to an activity specified in ■ CASS 5.2.3 R (1) (a) to ■ CASS 5.2.3 R (1) (c), the insurance undertaking has agreed that the firm may treat money which it receives and holds as agent of the undertaking, as client money and in accordance with the provisions of ■ CASS 5.3 to ■ CASS 5.6; and

(2) the agreement in (1) is in writing and adequate to show that the insurance undertaking consents to its interests under the trusts (or in Scotland agency) in ■ CASS 5.3.2 R or ■ CASS 5.4.7 R being subordinated to the interests of the firm’s other clients.

5.1.6 Except where a firm and an insurance undertaking have (in accordance with ■ CASS 5.1.5A R) agreed otherwise, for the purposes of ■ CASS 5.1 to ■ CASS 5.6 an insurance undertaking (when acting as such) with whom a firm conducts insurance distribution activity is not to be treated as a client of the firm.

Purpose

5.1.7 (1) Principle 10 (Clients’ assets) requires a firm to arrange adequate protection for clients’ assets when the firm is responsible for them. An essential part of that protection is the proper accounting and handling of client money. The rules in ■ CASS 5.1 to ■ CASS 5.6 also give effect to the requirement in article 10.6 of the IDD that all necessary measures should be taken to protect clients against the inability of an insurance intermediary to transfer premiums to an insurance undertaking or to transfer the proceeds of a claim or premium refund to the insured.
(2) There are two particular approaches which firms can adopt which reflect options given in article 10.6. The first is to provide by law or contract for a transfer of risk from the insurance intermediary to the insurance undertaking (CASS 5.2). The second is that client money is strictly segregated by being transferred to client accounts that cannot be used to reimburse other creditors in the event of the firm's insolvency (CASS 5.3 and CASS 5.4 provide different means of achieving such segregation). CASS 5.1.5A R permits a firm subject to certain conditions to treat money which it collects as agent of an insurance undertaking as client money; the principle of strict segregation is, however, satisfied because such undertakings must agree to their interests being subordinated to the interests of the firm's other clients.

5.1.8 A firm which carries on MiFID business or designated investment business in relation to life assurance business may, in accordance with CASS 7.10.3R and in relation to that business only, either comply with CASS 7 or elect to comply with the insurance client money chapter.

5.1.9 Firms are reminded that SUP 3 contains provisions which are relevant to the preparation and delivery of reports by auditors.
5.2 Holding money as agent of an insurance undertaking

Introduction

5.2.1 If a firm holds money as agent of an insurance undertaking then the firm’s clients (who are not insurance undertakings) will be adequately protected to the extent that the premiums which it receives are treated as being received by the insurance undertaking when they are received by the agent and claims money and premium refunds will only be treated as received by the client when they are actually paid over. The rules in CASS 5.2 make provision for agency agreements between firms and insurance undertakings to contain terms which make clear when money should be held by a firm as agent of an undertaking. Firms should refer to CASS 5.1.5 R to determine the circumstances in which they may treat money held on behalf of insurance undertakings as client money.

5.2.2 (1) Agency agreements between insurance intermediaries and insurance undertakings may be of a general kind and facilitate the introduction of business to the insurance undertaking. Alternatively, an agency agreement may confer on the intermediary contractual authority to commit the insurance undertaking to risk or authority to settle claims or handle premium refunds (often referred to as “binding authorities”). CASS 5.2.3 R requires that binding authorities of this kind must provide that the intermediary is to act as the agent of the insurance undertaking for the purpose of receiving and holding premiums (if the intermediary has authority to commit the insurance undertaking to risk), claims monies (if the intermediary has authority to settle claims on behalf of the insurance undertaking) and premium refunds (if the intermediary has authority to make refunds of premium on behalf of the insurance undertaking). Accordingly such money is not, except where a firm and an insurance undertaking have in compliance with CASS 5.1.5A R agreed otherwise, client money for the purposes of CASS 5.

(2) Other introductory agency agreements may also, depending on their precise terms, satisfy some or all of the requirements of the type of written agreement described in CASS 5.2.3 R. It is desirable that an intermediary should, before informing its clients (in accordance with CASS 5.2.3 R (3)) that it will receive money as agent of an insurance undertaking, agree the terms of that notification with the relevant insurance undertakings.
Requirement for written agreement before acting as agent of an insurance undertaking

(1) A firm must not agree to:
   (a) deal in investments as agent for an insurance undertaking in connection with an insurance distribution activity; or
   (b) act as agent for an insurance undertaking for the purpose of settling claims or handling premium refunds; or
   (c) otherwise receive money as agent of an insurance undertaking;
   unless:
   (d) it has entered into a written agreement with the insurance undertaking to that effect; and
   (e) it is satisfied on reasonable grounds that the terms of the policies issued by the insurance undertaking to the firm's clients are likely to be compatible with such an agreement; and
   (f) (i) (in the case of (a)) the agreement required by (d) expressly provides for the firm to act as agent of the insurance undertaking for the purpose of receiving premiums from the firm's clients; and
   (ii) (in the case of (b)) the agreement required by (d) expressly provides for the firm to act as agent of the insurance undertaking for the purpose of receiving and holding claims money (or, as the case may be, premium refunds) prior to transmission to the client making the claim (or, as the case may be, entitled to the premium refund) in question.

(2) A firm must retain a copy of any agreement it enters pursuant to (1) for a period of at least six years from the date on which it is terminated.

(3) Where a firm holds, or is to hold, money as agent for an insurance undertaking it must ensure that it informs those of its clients which are not insurance undertakings and whose transactions may be affected by the arrangement (whether in its terms of business, client agreements or otherwise in writing) that it will hold their money as agent of the insurance undertaking and if necessary the extent of such agency and whether it includes all items of client money or is restricted, for example, to the receipt of premiums.

(4) A firm may (subject to the consent of the insurance undertaking concerned) include in an agreement in (1) provision for client money received by its appointed representative, field representatives and other agents to be held as agent for the insurance undertaking (in which event it must ensure that the representative or agent provides the information to clients required by (3)).
5.2.5 A firm which provides for the protection of a client (which is not an insurance undertaking) under CASS 5.2 is relieved of the obligation to provide protection for that client under CASS 5.3 or CASS 5.4 to the extent of the items of client money protected by the agency agreement.

5.2.6 A firm may, in accordance with CASS 5.2.3 R (4), arrange for an insurance undertaking to accept responsibility for the money held by its appointed representatives, field representatives, and other agents, in which event CASS 5.5.18 R to CASS 5.5.25 G will not apply.

5.2.7 A firm may operate on the basis of an agency agreement as provided for by CASS 5.2.3 R for some of its clients and with protection provided by a client money trust in accordance with CASS 5.3 or CASS 5.4 for other clients. A firm may also operate on either basis for the same client but in relation to different transactions. A firm which does so should be satisfied that its administrative systems and controls are adequate and, in accordance with CASS 5.2.4 G, should ensure that money held for both types of client and business is kept separate.
5.3 Statutory trust

5.3.1 Section 137B(1) of the Act (Miscellaneous ancillary matters) provides that rules may make provision which results in client money being held by a firm on trust (England and Wales and Northern Ireland) or as agent (Scotland only). 

5.3.2 A firm (other than a firm acting in accordance with CASS 5.4) receives and holds client money as trustee (or in Scotland as agent) on the following terms:

1. for the purposes of and on the terms of CASS 5.3, CASS 5.5 and the client money (insurance) distribution rules;
2. subject to (4), for the clients (other than clients which are insurance undertakings when acting as such) for whom that money is held, according to their respective interests in it;
3. after all valid claims in (2) have been met, for clients which are insurance undertakings according to their respective interests in it;
4. on the failure of the firm, for the payment of the costs properly attributable to the distribution of the client money in accordance with (2) and (3); and
5. after all valid claims and costs under (2) to (4) have been met, for the firm itself.

5.3.3 A firm which holds client money can discharge its obligation to ensure adequate protection for its clients in respect of such money by complying with CASS 5.3 which provides for such money to be held by the firm on the terms of a trust imposed by the rules.

The trust imposed by CASS 5.3 is limited to a trust in respect of client money which a firm receives and holds. The consequential and supplementary requirements in CASS 5.5 are designed to secure the proper segregation and maintenance of adequate client money balances. In particular, CASS 5.5 does not permit a firm to use client money balances to provide credit for clients (or potential clients) such that, for example, their premium obligations may be met in advance.
of the premium being remitted to the firm. A firm wishing to provide credit for clients may however do so out of its own funds.
5.4 Non-statutory client money trust

Introduction

5.4.1 (1) CASS 5.4 permits a firm, which has adequate resources, systems and controls, to declare a trust on terms which expressly authorise it, in its capacity as trustee, to make advances of credit to the firm’s clients. The client money trust required by CASS 5.4 extends to such debt obligations which will arise if the firm, as trustee, makes credit advances, to enable a client’s premium obligations to be met before the premium is remitted to the firm and similarly if it allows claims and premium refunds to be paid to the client before receiving remittance of those monies from the insurance undertaking.

(2) CASS 5.4 does not permit a firm to make advances of credit to itself out of the client money trust. Accordingly, CASS 5.4 does not permit a firm to withdraw commission from the client money trust before it has received the premium from the client in relation to the non-investment insurance contract which generated the commission.

Voluntary nature of this section

5.4.2 A firm may elect to comply with the requirements in this section, and may do so for some of its business whilst complying with CASS 5.3 for other parts.

5.4.3 A firm is not subject to CASS 5.3 when and to the extent that it acts in accordance with this section.

Conditions for using the non-statutory client money trust

5.4.4 A firm may not handle client money in accordance with the rules in this section unless each of the following conditions is satisfied:

(1) the firm must have and maintain systems and controls which are adequate to ensure that the firm is able to monitor and manage its client money transactions and any credit risk arising from the operation of the trust arrangement and, if in accordance with CASS 5.4.2 R a firm complies with both the rules in CASS 5.3 and CASS 5.4, such systems and controls must extend to both arrangements;

(2) the firm must obtain, and keep current, written confirmation from its auditor that it has in place systems and controls which are adequate to meet the requirements in (1);
(3) the firm must designate a manager with responsibility for overseeing the firm’s day to day compliance with the systems and controls in (1) and the rules in this section;

(4) the firm (if, under the terms of the non-statutory trust, it is to handle client money for retail customers) must have and at all times maintain capital resources of not less than £50,000 calculated in accordance with MIPRU 4.4.1 R; and

(5) in relation to each of the clients for whom the firm holds money in accordance with CASS 5.4, the firm must take reasonable steps to ensure that its terms of business or other client agreements adequately explain, and obtain the client’s informed consent to, the firm holding the client’s money in accordance with CASS 5.4 (and in the case of a client which is an insurance undertaking (when acting as such) there must be an agreement which satisfies CASS 5.1.5A R).

5.4.5 The amount of a firm’s capital resources maintained for the purposes of MIPRU 4.2.11 R will also satisfy (in whole or in part) the requirement in CASS 5.4.4 R (4).

Client money to be received under the non-statutory client money trust

5.4.6 Except to the extent that a firm acts in accordance with CASS 5.3, a firm must not receive or hold any client money unless it does so as trustee (or, in Scotland, as agent) and has properly executed a deed (or equivalent formal document) to that effect.

Contents of trust deed

5.4.7 The deed referred to in CASS 5.4.6 R must provide that the money (and, if appropriate, designated investments) are held:

(1) for the purposes of and on the terms of:
   (a) CASS 5.4;
   (b) the applicable provisions of CASS 5.5; and
   (c) the client money (insurance) distribution rules

(2) subject to (4), for the clients (other than clients which are insurance undertakings when acting as such) for whom that money is held, according to their respective interests in it;

(3) after all valid claims in (2) have been met for clients which are insurance undertakings according to their respective interests in it;

(4) on failure of the firm, for the payment of the costs properly attributable to the distribution of the client money in accordance with (2) and (3); and
5.4.8 The deed (or equivalent formal document) referred to in CASS 5.4.6 R may provide that:

(1) the firm, acting as trustee (or, in Scotland, as agent), has power to make advances or give credit to clients or insurance undertakings from client money, provided that it also provides that any debt or other obligation of a client or resulting obligation of an insurance undertaking, in relation to an advance or credit, is held on the same terms as CASS 5.4.7 R;

(2) the benefit of a letter of credit or unconditional guarantee provided by an approved bank on behalf of a firm to satisfy any shortfall in the firm’s client money resource (as calculated under CASS 5.5.65 R) when compared with the firm’s client money requirement (as calculated under CASS 5.5.66 R or as appropriate CASS 5.5.68 R), is held on the same terms as CASS 5.4.7 R.
5.5 Segregation and the operation of client money accounts

Application

5.5.1 R Unless otherwise stated each of the provisions in CASS 5.5 applies to firms which are acting in accordance with CASS 5.3 (Statutory trust) or CASS 5.4 (Non-statutory trust).

5.5.2 G One purpose of CASS 5.5 is to ensure that, unless otherwise permitted, client money is kept separate from the firm's own money. Segregation, in the event of a firm's failure, is important for the effective operation of the trust that is created to protect client money. The aim is to clarify the difference between client money and general creditors' entitlements in the event of the failure of the firm.

Requirement to segregate

5.5.3 R A firm must, except to the extent permitted by CASS 5.5, hold client money separate from the firm's money.

Money due to a client from a firm

5.5.4 R If a firm is liable to pay money to a client, it must as soon as possible, and no later than one business day after the money is due and payable:

(1) pay it into a client bank account, in accordance with CASS 5.5.5 R; or

(2) pay it to, or to the order of, the client.

Segregation

5.5.5 R A firm must segregate client money by either:

(1) paying it as soon as is practicable into a client bank account; or

(2) paying it out in accordance with CASS 5.5.80 R.

5.5.6 G The FCA expects that in most circumstances it will be practicable for a firm to pay client money into a client bank account by not later than the next business day after receipt.
Where an insurance transaction involves more than one firm acting in a chain such that for example money is transferred from a "producing" broker who has received client money from a consumer to an intermediate broker and thereafter to an insurance undertaking, each broker firm will owe obligations to its immediate client to segregate client money which it receives (in this example the producing broker in relation to the consumer and the intermediate broker in relation to the producing broker). A firm which allows a third party broker to hold or control client money will not thereby be relieved of its fiduciary obligations (see CASS 5.5.34).

A firm may segregate client money in a different currency from that of receipt. If it does so, the firm must ensure that the amount held is adjusted at intervals of not more than twenty five business days to an amount at least equal to the original currency amount (or the currency in which the firm has its liability to its clients, if different), translated at the previous day's closing spot exchange rate.

A firm must not hold money other than client money in a client bank account unless it is:

1. A minimum sum required to open the account, or to keep it open; or
2. Money temporarily in the account in accordance with CASS 5.5.16 (Withdrawal of commission and mixed remittance); or
3. Interest credited to the account which exceeds the amount due to clients as interest and has not yet been withdrawn by the firm.

If it is prudent to do so to ensure that client money is protected (and provided that doing so would otherwise be in accordance with CASS 5.5.63 R (1)(b)(ii)), a firm may pay into, or maintain in, a client bank account money of its own, and that money will then become client money for the purposes of CASS 5 and the client money (insurance) distribution rules.

A firm, when acting in accordance with CASS 5.3 (statutory trust), must ensure that the total amount of client money held for each client in any of the firm's client money bank accounts is positive and that no payment is made from any such account for the benefit of a client unless the client has provided the firm with cleared funds to enable the payment to be made.

When a firm acts in accordance with CASS 5.3 (Statutory trust) it should not make a payment from the client bank account unless it is satisfied on reasonable grounds that the client has provided it with cleared funds. Accordingly, a firm should normally allow a reasonable period of time for cheques to clear. If a withdrawal is made and the client's cheque is subsequently dishonoured it will be the firm's responsibility to make good the shortfall in the account as quickly as possible (and without delay whilst a cheque is re-presented).

If client money is received by the firm in the form of an automated transfer, the firm must take reasonable steps to ensure that:
(1) the money is received directly into a client bank account; and

(2) if money is received directly into the firm’s own account, the money is transferred into a client bank account no later than the next business day after receipt.

A firm can hold client money in either a general client bank account (CASS 5.38 R) or a designated client bank account (CASS 5.39 R). A firm holds all client money in general client bank accounts for its clients as part of a common pool of money so those particular clients do not have a claim against a specific sum in a specific account; they only have a claim to the client money in general. A firm holds client money in designated client bank accounts for those clients who requested that their client money be part of a specific pool of money, so those particular clients do have a claim against a specific sum in a specific account; they do not have a claim to the client money in general unless a primary pooling event occurs. If the firm becomes insolvent, and there is (for whatever reason) a shortfall in money held for a client compared with that client’s entitlements, the available funds will be distributed in accordance with the client money (insurance) distribution rules.

Non-statutory trust - segregation of designated investments

A firm which handles client money in accordance with the rules for a non-statutory trust in CASS 5.4 may, to the extent it considers appropriate, subject to (2), satisfy the requirement to segregate client money by segregating or arranging for the segregation of designated investments with a value at least equivalent to such money as would otherwise have been segregated into a client bank account.

A firm which takes advantage of CASS 5.14 R will need to consider whether its permission should include the permitted activity of managing investments. If the firm is granted a power to manage with discretion the funds over which it is appointed as trustee under the trust deed required by
CASS 5.4 then it will be likely to need a permission to manage investments. It is unlikely to need such a permission, however, if it is merely granted a power to invest but the deed stipulates that the funds may only be managed with discretion by another firm (which has the necessary permission). Such an arrangement would not preclude the firm holding client money as trustee from appointing another firm (or firms) as manager and setting an appropriate strategy and overall asset allocation, subject to the limits set out in CASS 5 Ann 1 R. A firm may also need to consider whether it needs a permission to operate a collective investment scheme if any of its clients are to participate in the income or gains arising from the acquisition or disposal of designated investments.

Withdrawal of commission and mixed remittance

5.5.16 (1) A firm may draw down commission from the client bank account if:
   (a) it has received the premium from the client (or from a third party premium finance provider on the client’s behalf); and
   (b) this is consistent with the firm’s terms of business which it maintains with the relevant client and the insurance undertaking to whom the premium will become payable;

   and the firm may draw down commission before payment of the premium to the insurance undertaking, provided that the conditions in (a) and (b) are satisfied.

(2) If a firm receives a mixed remittance (that is part client money and part other money), it must:
   (a) pay the full sum into a client bank account in accordance with CASS 5.5.5 R; and
   (b) pay the money that is not client money out of the client bank account as soon as reasonably practicable and in any event by not later than twenty-five business days after the day on which the remittance is cleared (or, if earlier, when the firm performs the client money calculation in accordance with CASS 5.5.63 R (1)).

5.5.17 (1) As soon as commission becomes due to the firm (in accordance with CASS 5.5.16 R (1)) it must be treated as a remittance which must be withdrawn in accordance with CASS 5.5.16 R (2). The procedure required by CASS 5.5.16 R will also apply where money is due and payable to the firm in respect of fees due from clients (whether to the firm or other professionals).

(2) Firms are reminded that money received in accordance with CASS 5.2 must not, except where a firm and an insurance undertaking have (in accordance with CASS 5.1.5A R) agreed otherwise, be kept in a client bank account. Client money received from a third-party premium finance provider should, however, be segregated into a client bank account.

(3) Where a client makes payments of premium to a firm in instalments, CASS 5.5.16 R (1) applies in relation to each instalment.

(4) If a firm is unable to match a remittance with a transaction it may be unable to immediately determine whether the payment comprises a mixed remittance or is client money. In such cases the remittance...
should be treated as *client money* while the *firm* takes steps to match the remittance to a transaction as soon as possible.

### Appointed representatives, field representatives and other agents

**5.5.18**  
(1) Subject to (4), a *firm* must in relation to each of its *appointed representatives, field representatives* and other agents comply with  
- CASS 5.5.19 R to CASS 5.5.21 R (Immediate segregation) or with  
- CASS 5.5.23 R (Periodic segregation and reconciliation).

(2) A *firm* must in relation to each *representative* or other agent keep a record of whether it is complying with CASS 5.5.19 R to CASS 5.5.21 R or with CASS 5.5.23 R.

(3) A *firm* is, but without affecting the application of CASS 5.5.19 R to CASS 5.5.23 R, to be treated as the recipient of *client money* which is received by any of its *appointed representatives, field representatives* or other agents.

(4) Paragraphs (1) to (3) do not apply in relation to an *appointed representative, field representative* or other agent to which (if it were a *firm*) CASS 5.1.4AR (1) or CASS 5.1.4AR (2) would apply, but subject to the *representative* or agent maintaining an account which satisfies the requirements of CASS 5.5.49 R to the extent that the *representative* or agent will hold *client money* on trust or otherwise on behalf of its *clients*.

### Immediate segregation

**5.5.19**  
A *firm* must establish and maintain procedures to ensure that *client money* received by its *appointed representatives, field representatives*, or other agents of the *firm* is:

(1) paid into a *client bank account* of the *firm* in accordance with  
- CASS 5.5.5 R; or

(2) forwarded to the *firm*, or in the case of a *field representative* forwarded to a specified business address of the *firm*, so as to ensure that the money arrives at the specified business address by the close of the third *business day*.

**5.5.20**  
For the purposes of CASS 5.5.19 R, the *client money* received on *business day* one should be forwarded to the *firm* or specified business address of the *firm* no later than the next *business day* after receipt (*business day* two) in order for it to reach that *firm* or specified business address by the close of the third *business day*. Procedures requiring the *client money* to be sent to the *firm* or the specified business address of the *firm* by first class post no later than the next *business day* after receipt would meet the requirements of CASS 5.5.19 R.

**5.5.21**  
If *client money* is received in accordance with CASS 5.5.19 R, the *firm* must ensure that its *appointed representatives, field representatives* or other agents keep *client money* (whether in the form of *premiums*, claims *money* or *premium* refunds) separately identifiable from any other *money* (including
that of the firm) until the client money is paid into a client bank account or sent to the firm.

5.5.22 A firm which acts in accordance with §CASS 5.5.19 R to §CASS 5.5.21 R need not comply with §CASS 5.5.23 R.

Periodic segregation and reconciliation

5.5.23 (1) A firm must, on a regular basis, and at reasonable intervals, ensure that it holds in its client bank account an amount which (in addition to any other amount which it is required by these rules to hold) is not less than the amount which it reasonably estimates to be the aggregate of the amounts held at any time by its appointed representatives, field representatives, and other agents.

(2) A firm must, not later than ten business days following the expiry of each period in (1):

(a) carry out, in relation to each such representative or agent, a reconciliation of the amount paid by the firm into its client bank account with the amount of client money actually received and held by the representative or other agent; and

(b) make a corresponding payment into, or withdrawal from, the account.

5.5.24 (1) §CASS 5.5.23 R allows a firm with appointed representatives, field representatives and other agents to avoid the need for the representative to forward client money on a daily basis but instead requires a firm to segregate into its client money bank account amounts which it reasonably estimates to be sufficient to cover the amount of client money which the firm expects its representatives or agents to receive and hold over a given period. At the expiry of each such period, the firm must obtain information about the actual amount of client money received and held by its representatives so that it can reconcile the amount of client money it has segregated with the amounts actually received and held by its representatives and agents. The frequency at which this reconciliation is to be performed is not prescribed but it must be at regular and reasonable intervals having regard to the nature and frequency of the insurance business carried on by its representatives and agents. For example, a period of six months might be appropriate for a representative which conducts business involving the receipt of premiums only infrequently whilst for other representatives a periodic reconciliation at monthly intervals (or less) may be appropriate.

(2) Where a firm operates on the basis of §CASS 5.5.23 R, the money which is segregated into its client bank account is client money and will be available to meet any obligations owed to the clients of its representatives who for this purpose are treated as the firm’s clients.

5.5.25 A firm which acts in accordance with §CASS 5.5.23 R need not comply with §CASS 5.5.19 R to §CASS 5.5.21 R.
Client entitlements

5.5.26 R A firm must take reasonable steps to ensure that it is notified promptly of any receipt of client money in the form of client entitlements.

5.5.27 G The 'entitlements' mentioned in CASS 5.5.26 R refer to any kind of miscellaneous payment which the firm receives on behalf of a client and which are due to be paid to the client.

5.5.28 R When a firm receives a client entitlement on behalf of a client, it must pay any part of it which is client money:

(1) for client entitlements received in the United Kingdom, into a client bank account in accordance with CASS 5.5.5 R; or

(2) for client entitlements received outside the United Kingdom, into any bank account operated by the firm, provided that such client money is:

(a) paid to, or in accordance with, the instructions of the client concerned; or

(b) paid into a client bank account in accordance with CASS 5.5.5 R (1), as soon as possible but no later than five business days after the firm is notified of its receipt.

5.5.29 R A firm must take reasonable steps to ensure that a client entitlement which is client money is allocated within a reasonable period of time after notification of receipt.

Interest and investment returns

5.5.30 R (1) In relation to consumers, a firm must, subject to (2), take reasonable steps to ensure that its terms of business or other client agreements adequately explain, and where necessary obtain a client’s informed consent to, the treatment of interest and, if applicable, investment returns, derived from its holding of client money and any segregated designated investments.

(2) In respect of interest earned on client bank accounts, (1) does not apply if a firm has reasonable ground to be satisfied that in relation to insurance distribution activities carried on with or for a consumer the amount of interest earned will be not more than £20 per transaction.

5.5.31 G If no interest is payable to a consumer, that fact should be separately identified in the firm’s client agreement or terms of business.

5.5.32 G If a firm outlines its policy on its payment of interest, it need not necessarily disclose the actual rates prevailing at any particular time; the firm should disclose the terms, for example, the relevant reference rate plus or minus ‘x’ percentage points.
Transfer of client money to a third party

5.5.33 G CASS 5.5.34 R sets out the requirements a firm must comply with when it transfers client money to another person without discharging its fiduciary duty owed to that client. Such circumstances arise when, for example, a firm passes client money to another broker for the purposes of the client’s transaction being effected. A firm can only discharge itself from its fiduciary duty by acting in accordance with, and in the circumstances permitted by, CASS 5.5.80 R.

5.5.34 R A firm may allow another person, such as another broker to hold or control client money, but only if:

1. the firm transfers the client money for the purpose of a transaction for a client through or with that person; and

2. in the case of a consumer, that customer has been notified (whether through a client agreement, terms of business, or otherwise in writing) that the client money may be transferred to another person.

5.5.35 G In relation to the notification required by CASS 5.5.34 R (2), there is no need for a firm to make a separate disclosure in relation to each transfer made.

5.5.36 G A firm should not hold excess client money with another broker. It should be held in a client bank account.

Client bank accounts

5.5.37 G The FCA generally requires a firm to place client money in a client bank account with an approved bank. However, a firm which is an approved bank must not (subject to CASS 5.1.1 R (2)(e)) hold client money in an account with itself.

5.5.38 R (1) A firm must ensure that client money is held in a client bank account at one or more approved banks.

(2) If the firm is a bank, it must not hold client money in an account with itself.

5.5.39 R A firm may open one or more client bank accounts in the form of a designated client bank account. Characteristics of these accounts are that:

1. the account holds money of one or more clients;

2. the account includes in its title the word ‘designated’;

3. the clients whose money is in the account have each consented in writing to the use of the bank with which the client money is to be held; and

4. in the event of the failure of that bank, the account is not pooled with any other type of account unless a primary pooling event occurs.
(1) A firm may operate as many client accounts as it wishes.

(2) A firm is not obliged to offer its clients the facility of a designated client bank account.

(3) Where a firm holds money in a designated client bank account, the effect upon either:
   (a) the failure of a bank where any other client bank account is held; or
   (b) the failure of a third party to whom money has been transferred out of any other client bank account in accordance with CASS 5.5.34 R;

   (each of which is a secondary pooling event) is that money held in the designated client bank account is not pooled with money held in any other account. Accordingly clients whose money is held in a designated client bank account will not share in any shortfall resulting from a failure of the type described in (a) or (b).

(4) Where a firm holds client money in a designated client bank account, the effect upon the failure of the firm (which is a primary pooling event) is that money held in the designated client bank account is pooled with money in every other client bank account of the firm. Accordingly, clients whose money is held in a designated client bank account will share in any shortfall resulting from a failure of the firm.

A firm may hold client money with a bank that is not an approved bank if all the following conditions are met:

(1) the client money relates to one or more insurance transactions which are subject to the law or market practice of a jurisdiction outside the United Kingdom;

(2) because of the applicable law or market practice of that overseas jurisdiction, it is not possible to hold the client money in a client bank account with an approved bank;

(3) the firm holds the money with such a bank for no longer than is necessary to effect the transactions;

(4) the firm notifies each relevant client and has, in relation to a consumer, a client agreement, or terms of business which adequately explain that:
   (a) client money will not be held with an approved bank;
   (b) in such circumstances, the legal and regulatory regime applying to the bank with which the client money is held will be different from that of the United Kingdom and, in the event of a failure of the bank, the client money may be treated differently from the treatment which would apply if the client money were held by an approved bank in the United Kingdom; and
   (c) if it is the case, the particular bank has not accepted that it has no right of set-off or counterclaim against money held in a client bank account, in respect of any sum owed on any other account.
of the **firm**, notwithstanding the **firm**'s request to the bank as required by ■ CASS 5.5.49 R; and

(5) the **client money** is held in a designated bank account.

### A firm's selection of a bank

**5.5.42** G

A **firm** owes a duty of care to a **client** when it decides where to place **client money**. The review required by ■ CASS 5.5.43 R is intended to ensure that the risks inherent in placing **client money** with a bank are minimised or appropriately diversified by requiring a **firm** to consider carefully the bank or banks with which it chooses to place **client money**. For example, a **firm** which is likely only to hold relatively modest amounts of **client money** will be likely to be able to satisfy this requirement if it selects an **authorised** UK clearing bank.

**5.5.43** R

Before a **firm** opens a **client bank account** and as often as is appropriate on a continuing basis (and no less than once in each financial year), it must take reasonable steps to establish that the bank is appropriate for that purpose.

**5.5.44** G

A **firm** should consider diversifying placements of **client money** with more than one bank where the amounts are, for example, of sufficient size to warrant such diversification.

**5.5.45** G

When considering where to place **client money** and to determine the frequency of the appropriateness test under ■ CASS 5.5.43 R, a **firm** should consider taking into account, together with any other relevant matters:

1. the capital of the bank;

2. the amount of **client money** placed, as a proportion of the bank's capital and deposits;

3. the credit rating of the bank (if available); and

4. to the extent that the information is available, the level of risk in the investment and loan activities undertaken by the bank and its **affiliated companies**.

**5.5.46** G

A **firm** will be expected to perform due diligence when opening a **client bank account** with a bank that is authorised in the **United Kingdom**. Any continuing assessment of that bank may be restricted to verification that it remains authorised in the **United Kingdom**.

### Group banks

**5.5.47** R

Subject to ■ CASS 5.5.41 R, a **firm** that holds or intends to hold **client money** with a bank which is in the same **group** as the **firm** must:

1. undertake a continuous review in relation to that bank which is at least as rigorous as the review of any bank which is not in the same **group**, in order to ensure that the decision to use a **group** bank is appropriate for the **client**;
(2) disclose in writing to its client at the outset of the client relationship (whether by way of a client agreement, terms of business or otherwise in writing) or, if later, not less than 20 business days before it begins to hold client money of that client with that bank:

(a) that it is holding or intends to hold client money with a bank in the same group;

(b) the identity of the bank concerned; and

(c) that the client may choose not to have his money placed with such a bank.

5.5.48 If a client has notified a firm in writing that he does not wish his money to be held with a bank in the same group as the firm, the firm must either:

(1) place that client money in a client bank account with another bank in accordance with § CASS 5.5.38 R; or

(2) return that client money to, or pay it to the order of, the client.

Notification and acknowledgement of trust (banks)

5.5.49 When a firm opens a client bank account, the firm must give or have given written notice to the bank requesting the bank to acknowledge to it in writing:

(1) that all money standing to the credit of the account is held by the firm as trustee (or if relevant in Scotland, as agent) and that the bank is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to it on any other account of the firm; and

(2) that the title of the account sufficiently distinguishes that account from any account containing money that belongs to the firm, and is in the form requested by the firm.

5.5.50 In the case of a client bank account in the United Kingdom, if the bank does not provide the acknowledgement referred to in § CASS 5.5.49 R within 20 business days after the firm dispatched the notice, the firm must withdraw all money standing to the credit of the account and deposit it in a client bank account with another bank as soon as possible.

5.5.51 In the case of a client bank account outside the United Kingdom, if the bank does not provide the acknowledgement referred to in § CASS 5.5.49 R within 20 business days after the firm dispatched the notice, the firm must notify the client of this fact as set out in § CASS 5.5.53 R.

5.5.52 Firms are reminded of the provisions of § CASS 5.5.41 R (4), which sets out the notification and consents required when using a bank that is not an approved bank.
Notification to clients: use of an approved bank outside the United Kingdom

5.5.3  
A firm must not hold, for a consumer, client money in a client bank account outside the United Kingdom, unless the firm has previously disclosed to the consumer (whether in its terms of business, client agreement or otherwise in writing):

   (1) that his money may be deposited in a client bank account outside the United Kingdom but that the client may notify the firm that he does not wish his money to be held in a particular jurisdiction;

   (2) that in such circumstances, the legal and regulatory regime applying to the approved bank will be different from that of the United Kingdom and, in the event of a failure of the bank, his money may be treated in a different manner from that which would apply if the client money were held by a bank in the United Kingdom; and

   (3) if it is the case, that a particular bank has not accepted that it has no right of set-off or counterclaim against money held in a client bank account in respect of any sum owed on any other account of the firm, notwithstanding the firm's request to the bank as required by CASS 5.5.49 R.

5.5.4  
There is no need for a firm to make a separate disclosure under CASS 5.5.3 R (1) and CASS 5.5.3 R (2) in relation to each jurisdiction.

5.5.5  
Firms are reminded of the provisions of CASS 5.5.41 R (4), which sets out the notification and consents required when using a bank that is not an approved bank.

5.5.6  
If a client has notified a firm in writing before entering into a transaction that client money is not to be held in a particular jurisdiction, the firm must either:

   (1) hold the client money in a client bank account in a jurisdiction to which the client has not objected; or

   (2) return the client money to, or to the order of, the client.

5.5.7  
Firms are reminded of the provisions of CASS 5.5.41 R (4), which sets out the notification and consents required when using a bank that is not an approved bank.

Notification to consumers: use of broker or settlement agent outside the United Kingdom

5.5.8  
A firm must not undertake any transaction for a consumer that involves client money being passed to another broker or settlement agent located in a jurisdiction outside the United Kingdom, unless the firm has previously disclosed to the consumer (whether in its terms of business, client agreement or otherwise in writing):
(1) that his client money may be passed to a person outside the United Kingdom but the client may notify the firm that he does not wish his money to be passed to a person in a particular jurisdiction; and

(2) that, in such circumstances, the legal and regulatory regime applying to the broker or settlement agent will be different from that of the United Kingdom and, in the event of a failure of the broker or settlement agent, this money may be treated in a different manner from that which would apply if the money were held by a broker or settlement agent in the United Kingdom.

5.5.59 There is no need for a firm to make a separate disclosure under CASS 5.5.58 R in relation to each jurisdiction.

5.5.60 If a client has notified a firm before entering into a transaction that he does not wish his money to be passed to another broker or settlement agent located in a particular jurisdiction, the firm must either:

(1) hold the client money in a client bank account in the United Kingdom or a jurisdiction to which the money has not objected and pay its own money to the firm's own account with the broker, agent or counterparty; or

(2) return the money to, or to the order of, the client.

Notification to the FCA: failure of a bank, broker or settlement agent

5.5.61 On the failure of a third party with which client money is held, a firm must notify the FCA:

(1) as soon as it becomes aware, of the failure of any bank, other broker or settlement agent or other entity with which it has placed, or to which it has passed, client money; and

(2) as soon as reasonably practical, whether it intends to make good any shortfall that has arisen or may arise and of the amounts involved.

Client money calculation and reconciliation

5.5.62 In order that a firm may check that it has sufficient money segregated in its client bank account (and held by third parties) to meet its obligations to clients it is required periodically to calculate the amount which should be segregated (the client money requirement) and to compare this with the amount shown as its client money resource. This calculation is, in the first instance, based upon the firm's accounting records and is followed by a reconciliation with its banking records. A firm is required to make a payment into the client bank account if there is a shortfall or to remove any money which is not required to meet the firm's obligations.

(2) For the purpose of calculating its client money requirement two alternative calculation methods are permitted, but a firm must use the same method in relation to CASS 5.3 and CASS 5.4. The first
refers to individual client cash balances; the second to aggregate amounts of client money recorded on a firm business ledgers.

5.5.63

(1) A firm must, as often as is necessary to ensure the accuracy of its records and at least at intervals of not more than 25 business days:

(a) check whether its client money resource, as determined by CASS 5.5.65 R on the previous business day, was at least equal to the client money requirement, as determined by CASS 5.5.66 R or CASS 5.5.68 R, as at the close of business on that day; and

(b) ensure that:

(i) any shortfall is paid into a client bank account by the close of business on the day the calculation is performed; or

(ii) any excess is withdrawn within the same time period unless CASS 5.5.9 R or CASS 5.5.10 R applies to the extent that the firm is satisfied on reasonable grounds that it is prudent to maintain a positive margin to ensure the calculation in (a) is satisfied having regard to any unreconciled items in its business ledgers as at the date on which the calculations are performed; and

(c) include in any calculation of its client money requirement (whether calculated in accordance with CASS 5.5.66 R or CASS 5.5.68 R) any amounts attributable to client money received by its appointed representatives, field representatives or other agents and which, as at the date of calculation, it is required to segregate in accordance with CASS 5.5.19 R.

(2) A firm must within ten business days of the calculation in (a) reconcile the balance on each client bank account as recorded by the firm with the balance on that account as set out in the statement or other form of confirmation used by the bank with which that account is held.

(3) When any discrepancy arises as a result of the reconciliation carried out in (2), the firm must identify the reason for the discrepancy and correct it as soon as possible, unless the discrepancy arises solely as a result of timing differences between the accounting systems of the party providing the statement or confirmation and those of the firm.

(4) While a firm is unable to resolve a difference arising from a reconciliation, and one record or a set of records examined by the firm during its reconciliation indicates that there is a need to have a greater amount of client money than is in fact the case, the firm must assume, until the matter is finally resolved, that the record or set of records is accurate and either pay its own money into a relevant account or make a withdrawal of any excess.

5.5.64

A firm must keep a record of whether it calculates its client money requirement in accordance with CASS 5.5.66 R or CASS 5.5.68 R and may only use one method during each annual accounting period (which method must be the same in relation to both CASS 5.3 and CASS 5.4).
Client money resource

The client money resource, for the purposes of CASS 5.5.63 R (1)(a), is:

1. the aggregate of the balances on the firm's client money bank accounts, as at the close of business on the previous business day and, if held in accordance with CASS 5.4, designated investments (valued on a prudent and consistent basis) together with client money held by a third party in accordance with CASS 5.5.34 R; and

2. (but only if the firm is comparing the client money resource with its client's money (accruals) requirement in accordance with CASS 5.5.68 R) to the extent that client money is held in accordance with CASS 5.3 (statutory trust), insurance debtors (which in this case cannot include pre-funded items); and

3. (but only if the firm is comparing the client money resource with its client's money (accruals) requirement in accordance with CASS 5.5.68 R) to the extent that client money is held in accordance with CASS 5.4 (non-statutory trust):
   a. all insurance debtors (including pre-funded items whether in respect of advance premiums, claims, premium refunds or otherwise) shown in the firm's business ledgers as amounts due from clients, insurance undertakings and other persons, such debts valued on a prudent and consistent basis to the extent required to meet any shortfall of the client money resource compared with the firm's client money requirement; and
   b. the amount of any letter of credit or unconditional guarantee provided by an approved bank and held on the terms of the trust (or, in Scotland, agency), limited to:
      i. the maximum sum payable by the approved bank under the letter of credit or guarantee; or
      ii. if less, the amount which would, apart from the benefit of the letter of credit or guarantee, be the shortfall of the client money resource compared with the client money requirement under CASS 5.5.66 R or CASS 5.5.68 R.

But a firm may treat a transaction with an insurance undertaking which is not a UK domestic firm as complete, and accordingly may (but only for the purposes of the calculation in (1)) disregard any unreconciled items of client money transferred to an intermediate broker relating to such a transaction, if:

4. it has taken reasonable steps to ascertain whether the transaction is complete; and

5. it has no reason to consider the transaction has not been completed; and

6. a period of at least 12 months has elapsed since the money was transferred to the intermediate broker for the purpose of the transaction.
**Client money (client balance) requirement**

A firm’s client money (client balance) requirement is the sum of, for all clients, the individual client balances calculated in accordance with CASS 5.5.67 R but excluding any individual balances which are negative (that is, uncleared client funds).

The individual client balance for each client must be calculated as follows:

1. the amount paid by a client to the firm (to include all premiums); plus
2. the amount due to the client (to include all claims and premium refunds); plus
3. the amount of any interest or investment returns due to the client;
4. less the amount paid to insurance undertakings for the benefit of the client (to include all premiums and commission due to itself) (i.e. commissions that are due but have not yet been removed from the client account);
5. less the amount paid by the firm to the client (to include all claims and premium refunds);

and where the individual client balance is found by the sum \(((1) + (2) + (3)) - ((4) + (5))\).

**Client money (accruals) requirement**

A firm’s client money (accruals) requirement is the sum of the following:

1. all insurance creditors shown in the firm’s business ledgers as amounts due to insurance undertakings, clients and other persons; plus
2. unearned commission being the amount of commission shown as accrued (but not shown as due and payable) as at the date of the calculation (a prudent estimate must be used if the firm is unable to produce an exact figure at the date of the calculation).

A firm which calculates its client money requirement on the preceding basis must in addition and within a reasonable period be able to match its client money resource to its requirement by reference to individual clients (with such matching being achieved for the majority of its clients and transactions).
Failure to perform calculations or reconciliation

A firm must notify the FCA immediately if it is unable to, or does not, perform the calculation required by CASS 5.5.63 R (1).

A firm must notify the FCA immediately it becomes aware that it may not be able to make good any shortfall identified by CASS 5.5.63 R (1) by the close of business on the day the calculation is performed and if applicable when the reconciliation is completed.

Discharge of fiduciary duty

The purpose of CASS 5.5.80 R to CASS 5.5.83 R is to set out those situations in which a firm will have fulfilled its contractual and fiduciary obligations in relation to any client money held for or on behalf of its client, or in relation to the firm’s ability to require repayment of that money from a third party.

Money ceases to be client money if it is paid:

(1) to the client, or a duly authorised representative of the client; or

(2) to a third party on the instruction of or with the specific consent of the client, but not if it is transferred to a third party in the course of effecting a transaction, in accordance with CASS 5.5.34 R; or

(3) into a bank account of the client (not being an account which is also in the name of the firm); or

(4) to the firm itself, when it is due and payable to the firm in accordance with CASS 5.1.5 R (1); or

(5) to the firm itself, when it is an excess in the client bank account as set out in CASS 5.5.63 R (1)(b)(ii).

(1) A firm which pays professional fees (for example to a loss adjuster or valuer) on behalf of a client may do so in accordance with CASS 5.5.80 R (2) where this is done on the instruction of or with the consent of the client.
(2) When a firm wishes to transfer client money balances to a third party in the course of transferring its business to another firm, it should do so in compliance with CASS 5.5.80 R and a transferee firm will come under an obligation to treat any client money so transferred in accordance with these rules.

(3) Firms are reminded of their obligation, when transferring money to third parties in accordance with CASS 5.5.34 R, to use appropriate skill, care and judgment in their selection of third parties in order to ensure adequate protection of client money.

(4) Firms are reminded that, in order to calculate their client money resource in accordance with CASS 5.5.63 R to CASS 5.5.65 R, they will need to have systems in place to produce an accurate accounting record showing how much client money is being held by third parties at any point in time. For the purposes of CASS 5.5.63 R to CASS 5.5.65 R, however, a firm must assume that monies remain at an intermediate broker awaiting completion of the transaction unless it has received confirmation that the transaction has been completed.

5.5.82 R When a firm draws a cheque or other payable order to discharge its fiduciary duty under CASS 5.5.80 R, it must continue to treat the sum concerned as client money until the cheque or order is presented and paid by the bank.

5.5.83 R For the purposes of CASS 5.1.5 R, if a firm makes a payment to, or on the instructions of, a client, from an account other than a client bank account, until that payment has cleared, no equivalent sum will become due and payable to the firm or may be withdrawn from a client bank account by way of reimbursement.

Records

5.5.84 R A firm must ensure that proper records, sufficient to show and explain the firm’s transactions and commitments in respect of its client money, are made and retained for a period of three years after they were made.
5.6 Client money distribution

Application

5.6.1 (1) The client money (insurance) distribution rules apply to a firm that in holding client money is subject to CASS 5.3 (statutory trust) or CASS 5.4 (Non-statutory trust) when a primary pooling event or a secondary pooling event occurs.

(2) In the event of there being any discrepancy between the terms of the trust as required by CASS 5.4.7 R (1)(c) and the provisions of CASS 5.6, the latter shall apply.

5.6.2 (1) The client money (insurance) distribution rules have force and effect on any firm that holds client money in accordance with CASS 5.3 or CASS 5.4. Therefore, they may apply to a UK branch of an overseas firm. In this case, the UK branch of the firm may be treated as if the branch itself is a free-standing entity subject to the client money (insurance) distribution rules.

(2) Firms that act in accordance with CASS 5.4 (Non-statutory trust) are reminded that the client money (insurance) distribution rules should be given effect in the terms of trust required by CASS 5.4.

Purpose

5.6.3 The client money (insurance) distribution rules seek to facilitate the timely return of client money to a client in the event of the failure of a firm or third party at which the firm holds client money.

Failure of the authorised firm: primary pooling event

5.6.4 A primary pooling event triggers a notional pooling of all the client money, in every type of client money account, and the obligation to distribute it.

5.6.5 A primary pooling event occurs:

(1) on the failure of the firm; or

(2) on the vesting of assets in a trustee in accordance with an ‘assets requirement’ imposed under 55P(1)(b) or (c) (as the case may be) of the Act; or
(3) on the coming into force of a requirement for all client money held by the firm; or

(4) when the firm notifies, or is in breach of its duty to notify, the FCA, in accordance with CASS 5.5.77 R, that it is unable correctly to identify and allocate in its records all valid claims arising as a result of a secondary pooling event.

5.6.6 R CASS 5.6.5 R (4) does not apply so long as:

(1) the firm is taking steps, in consultation with the FCA, to establish those records; and

(2) there are reasonable grounds to conclude that the records will be capable of rectification within a reasonable period.

Pooling and distribution

If a primary pooling event occurs:

(1) client money held in each client money account of the firm is treated as pooled;

(2) the firm must distribute that client money in accordance with CASS 5.3.2 R or, as appropriate, CASS 5.4.7 R, so that each client receives a sum which is rateable to the client money entitlement calculated in accordance with CASS 5.5.66 R; and

(3) the firm must, as trustee, call in and make demand in respect of any debt due to the firm as trustee, and must liquidate any designated investment, and any letter of credit or guarantee upon which it relies for meeting any shortfall in its client money resource and the proceeds shall be pooled together with other client money as in (1) and distributed in accordance with (2).

5.6.7 R

A client's main claim is for the return of client money held in a client bank account. A client may claim for any shortfall against money held in a firm's own account. For that claim, the client will be an unsecured creditor of the firm.

Client money received after the failure of the firm

5.6.9 R CASS 5.4 (Non-statutory trust)) after a primary pooling event must not be pooled with client money held in any client money account operated by the firm at the time of the primary pooling event. It must be placed in a client bank account that has been opened after that event and must be handled in accordance with the client money rules, and returned to the relevant client without delay, except to the extent that:

(1) it is client money relating to a transaction that has not completed at the time of the primary pooling event; or

(2) it is money relating to a client, for whom the client money requirement, calculated in accordance with CASS 5.5.66 R or
CASS 5 : Client money: insurance distribution activity

Section 5.6 : Client money distribution

CASS 5.6.10  **G**  Client money received after the primary pooling event relating to an incomplete transaction should be used to complete that transaction.

CASS 5.6.11  **R**  If a firm receives a mixed remittance after a primary pooling event, it must:

1. pay the full sum into the separate client bank account opened in accordance with CASS 5.6.9 R; and

2. pay the money that is not client money out of that client bank account into the firm’s own bank account within one business day of the day on which the remittance is cleared.

CASS 5.6.12  **G**  Whenever possible the firm should seek to split a mixed remittance before the relevant accounts are credited.

Failure of a bank, other broker or settlement agent: secondary pooling events

CASS 5.6.13  **R**  If both a primary pooling event and a secondary pooling event occur, the provisions of this section relating to a primary pooling event apply.

CASS 5.6.14  **R**  A secondary pooling event occurs on the failure of a third party to which client money held by the firm has been transferred under CASS 5.5.34 R.

CASS 5.6.15  **R**  CASS 5.6.20 R to CASS 5.6.31 R do not apply if, on the failure of the third party, the firm repays to its clients or pays into a client bank account, at an unaffected bank, an amount equal to the amount of client money which would have been held if a shortfall had not occurred at that third party.

CASS 5.6.16  **G**  When client money is transferred to a third party, a firm continues to owe a fiduciary duty to the client. However, consistent with a fiduciary’s responsibility (whether as agent or trustee) for third parties under general law, a firm will not be held responsible for a shortfall in client money caused by a third party failure if it has complied with those duties.

CASS 5.6.17  **G**  To comply with its duties, the firm should show proper care:

1. in the selection of a third party; and

2. when monitoring the performance of the third party.

In the case of client money transferred to a bank, by demonstrating compliance with CASS 5.5.43 R, a firm should be able to demonstrate that it has taken reasonable steps to comply with its duties.
Failure of a bank

5.6.18 When a bank fails and the firm decides not to make good the shortfall in the amount of client money held at that bank, a secondary pooling event will occur in accordance with CASS 5.6.20 R. The firm would be expected to reflect the shortfall that arises at the firm’s bank in the periodic client money calculation by reducing the client money resource and client money requirement accordingly.

5.6.19 The client money (insurance) distribution rules seek to ensure that clients who have previously specified that they are not willing to accept the risk of the bank that has fails, and who therefore requested that their client money be placed in a designated client bank account as a different bank, should not suffer the loss of the bank that has failed.

Failure of a bank: pooling

5.6.20 If a secondary pooling event occurs as a result of the failure of a bank where one or more general client bank accounts are held, then:

(1) in relation to every general client bank account of the firm, the provisions of CASS 5.6.22 R and CASS 5.6.26 R to CASS 5.6.28 G will apply;

(2) in relation to every designated client bank account held by the firm with the failed bank, the provisions of CASS 5.6.24 R and CASS 5.6.26 R to CASS 5.6.28 G will apply; and

(3) any money held at a bank, other than the bank that has failed, in designated client bank accounts is not pooled with any other client money.

5.6.21 If a secondary pooling event occurs as a result of the failure of a bank where one or more designated client bank accounts are held then in relation to every designated client bank account held by the firm with the failed bank, the provisions of CASS 5.6.24 R and CASS 5.6.26 R to CASS 5.6.28 G will apply.

5.6.22 Money held in each general client bank account of the firm must be treated as pooled and:

(1) any shortfall in client money held, or which should have been held, in general client bank accounts, that has arisen as a result of the failure of the bank, must be borne by all the clients whose client money is held in a general client bank account of the firm, rateably in accordance with their entitlements;

(2) a new client money entitlement must be calculated for each client by the firm, to reflect the requirements in (1), and the firm’s records must be amended to reflect the reduced client money entitlement;

(3) the firm must make and retain a record of each client’s share of the client money shortfall at the failed bank until the client is repaid; and
(4) the firm must use the new client entitlements, calculated in accordance with (2), when performing the client money calculation in accordance with CASS 5.5.63 R to CASS 5.5.69 R.

5.6.23 G The term ‘which should have been held’ is a reference to the failed bank’s failure (and elsewhere, as appropriate, is a reference to the other failed third party’s failure) to hold the client money at the time of the pooling event.

5.6.24 R For each client with a designated client bank account held at the failed bank:

(1) any shortfall in client money held, or which should have been held, in designated client bank accounts that has arisen as a result of the failure, must be borne by all the clients whose client money is held in a designated client bank account of the firm at the failed bank, rateably in accordance with their entitlements;

(2) a new client money entitlement must be calculated for each of the relevant clients by the firm, and the firm’s records must be amended to reflect the reduced client money entitlement;

(3) the firm must make and retain a record of each client’s share of the client money shortfall at the failed bank until the client is repaid; and

(4) the firm must use the new client money entitlements, calculated in accordance with (2), when performing the periodic client money calculation, in accordance with CASS 5.5.63 R to CASS 5.5.69 R.

5.6.25 R A client whose money was held, or which should have been held, in a designated client bank account with a bank that has failed is not entitled to claim in respect of that money against any other client bank account or client transaction account of the firm.

Client money received after the failure of a bank

Client money received by the firm after the failure of a bank, that would otherwise have been paid into a client bank account at that bank:

(1) must not be transferred to the failed bank unless specifically instructed by the client in order to settle an obligation of that client to the failed bank; and

(2) must be, subject to (1), placed in a separate client bank account that has been opened after the secondary pooling event and either:

(a) on the written instruction of the client, transferred to a bank other than the one that has failed; or

(b) returned to the client as soon as possible.

5.6.27 R If a firm receives a mixed remittance after the secondary pooling event which consists of client money that would have been paid into a general client bank account, a designated client bank account or a designated client fund account maintained at the bank that has failed, it must:
(1) pay the full sum into a client bank account other than one operated at the bank that has failed; and
(2) pay the money that is not client money out of that client bank account within one business day of the day on which the remittance is cleared.

Whenever possible the firm should seek to split a mixed remittance before the relevant accounts are credited.

**Failure of an intermediate broker or settlement agent: pooling.**

If a secondary pooling event occurs as a result of the failure of another broker or settlement agent to whom the firm has transferred client’s money then, in relation to every general client bank account of the firm, the provisions of CASS 5.6.26 R to CASS 5.6.28 G and CASS 5.6.30 R will apply.

Money held in each general client bank account of the firm must be treated as pooled and:

(1) any shortfall in client money held, or which should have been held, in general client bank accounts, that has arisen as a result of the failure, must be borne by all the clients whose client money is held in a general client bank account of the firm, rateably in accordance with their entitlements;
(2) a new client money entitlement must be calculated for each client by the firm, to reflect the requirements of (1), and the firm’s records must be amended to reflect the reduced client money entitlement;
(3) the firm must make and retain a record of each client’s share of the client money shortfall at the failed intermediate broker or settlement agent until the client is repaid; and
(4) the firm must use the new client money entitlements, calculated in accordance with (2), when performing the periodic client money calculation, in accordance with CASS 5.5.63 R to CASS 5.5.69 R.

**Client money received after the failure of a broker or settlement agent**

Client money received by the firm after the failure of another broker or settlement agent, to whom the firm has transferred client money that would otherwise have been paid into a client bank account at that broker or settlement agent:

(1) must not be transferred to the failed thirty party unless specifically instructed by the client in order to settle an obligation of that client to the failed broker or settlement agent; and
(2) must be, subject to (1), placed in a separate client bank account that has been opened after the secondary pooling event and either:
(a) on the written instruction of the client, transferred to a third party other than the one that has failed; or
(b) returned to the client as soon as possible.

Notification on the failure of a bank, other broker or settlement agent

The provisions of CASS 5.5.61 R apply.
5.7 Mandates

5.7.1 R [deleted]
5.7.2 R [deleted]
5.7.3 G [deleted]
5.7.4 G [deleted]
5.7.5 G [deleted]
5.7.6 R [deleted]
5.8 Safe keeping of client’s documents and other assets

Application

5.8.1 R

(1) CASS 5.8 applies to a firm (including in its capacity as trustee under CASS 5.4) which in the course of insurance distribution activity takes into its possession for safekeeping any client title documents (other than documents of no value) or other tangible assets belonging to clients.

(2) CASS 5.8 does not apply to a firm when:
   (a) carrying on an insurance distribution activity which is in respect of a reinsurance contract; or
   (b) acting in accordance with CASS 6 (Custody rules).

Purpose

5.8.2 G

The rules in this section amplify the obligation in Principle 10 which requires a firm to arrange adequate protection for client’s assets. Firms carrying on insurance distribution activities may hold, on a temporary or longer basis, client title documents such as policy documents (other than policy documents of no value) and also items of physical property if, for example, a firm arranges for a valuation. The rules are intended to ensure that firms make adequate arrangements for the safe keeping of such property.

Requirement

5.8.3 R

(1) A firm which has in its possession or control documents evidencing a client’s title to a contract of insurance or other similar documents (other than documents of no value) or which takes into its possession or control tangible assets belonging to a client, must take reasonable steps to ensure that any such documents or items of property:
   (a) are kept safe until they are delivered to the client;
   (b) are not delivered or given to any other person except in accordance with instructions given by the client; and that a record is kept as to the identity of any such documents or items of property and the dates on which they were received by the firm and delivered to the client or other person.

(2) A firm must retain the record required in (1) for a period of three years after the document or property concerned is delivered to the client or other person.
Segregation of designated investments: permitted investments, general principles and conditions (This Annex belongs to ■ CASS 5.5.14 R)

1 The general principles which must be followed when client money segregation includes designated investments:
   (a) there must be a suitable spread of investments;
   (b) investments must be made in accordance with an appropriate liquidity strategy;
   (c) the investments must be in accordance with an appropriate credit risk policy;
   (d) any foreign exchange risks must be prudently managed.

2 Table of permitted designated investments for the purpose of CASS 5.5.14 R (1).

<table>
<thead>
<tr>
<th>Investment type</th>
<th>Qualification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Negotiable debt security (including a certificate of deposit)</td>
<td>(a) Remaining term to maturity of 5 years or less; and (b) The issuer or investment must have a short-term credit rating of A1 by Standard and Poor’s, or P1 by Moody’s Investor Services, or F1 by Fitch if the instrument has a remaining term to maturity of 366 days or less; or a minimum long term credit rating of AA- by Standards and Poor’s, or Aa3 by Moody’s Investor Services or AA- by Fitch if the instrument has a term to maturity of more than 366 days.</td>
</tr>
<tr>
<td>2. A repo in relation to negotiable debt security</td>
<td>As for 1 above and where the credit rating of the counterparty also meets the criteria in 1.</td>
</tr>
<tr>
<td>3. Bond funds</td>
<td>(a) An authorised fund or a recognised scheme or an investment company which is registered by the Securities and Exchange Commission of the United States of America under the Investment Company Act 1940; (b) A minimum credit rating and risk rating of Aa and S2 respectively by Standard and Poor’s or Aa and MR2 respectively by Moody’s Investor Services or AA and V2 respectively by Fitch.</td>
</tr>
<tr>
<td>4. Money market fund</td>
<td>(a) An authorised fund or a recognised scheme; (b) A minimum credit and risk rating of Aaa and MR1+ respectively by Moody’s Investor Services or AAAm by Standard and Poor’s or AAA and V1+ respectively by Fitch.</td>
</tr>
<tr>
<td>5. Derivatives</td>
<td>Only for the purpose of prudently managing foreign currency risks.</td>
</tr>
</tbody>
</table>

3 The general conditions which must be satisfied in the segregation of designated investments are:
   (a) any redemption of an investment must be by payment into the firm’s client money bank account;
   (b) where the credit or risk rating of a designated investment falls below the minimum set out in the Table, the firm must dispose of the investment as soon as possible and in any event not later than 20 business days following the downgrade;
   (c) where any investment or issuer has more than one rating, the lowest shall apply.
Chapter 6

Custody rules
6.1 Application

This chapter (the custody rules) applies to a firm:

(1) [deleted]
   (a) [deleted]
   (b) [deleted]

(1A) when it holds financial instruments belonging to a client in the course of its MiFID business;

(1B) when it is safeguarding and administering investments, in the course of business that is not MiFID business;

(1C) when it is acting as trustee or depositary of an AIF;

(1D) when it is acting as trustee or depositary of a UK UCITS; and

(1E) in respect of any arrangement for a client to transfer full ownership of a safe custody asset (or an asset which would be a safe custody asset but for the arrangement) to the firm which is:
   (a) in the course of, or in connection with, the firm's designated investment business; and
   (b) for the purpose of securing or otherwise covering present or future, actual or contingent or prospective obligations, and the application of the custody rules to a firm under this paragraph is set out in the rules and guidance in CASS 6.1.6 R to CASS 6.1.9 G; and

(1F) when it is a small AIFM carrying on excluded custody activities.

(2) [deleted]

6.1.1-A R In applying the custody rules to a small AIFM's excluded custody activities, any reference to a firm carrying on the regulated activities of safeguarding and administering investments, safeguarding and administering assets (without arranging) or arranging safeguarding and administration of assets includes those excluded custody activities that would, but for the exclusion in article 72AA of the RAO, amount to whichever of those regulated activities is referred to.

6.1.1A G The regulated activity of safeguarding and administering investments covers both the safeguarding and administration of assets (without arranging)
and arranging safeguarding and administration of assets, when those assets are either safe custody investments or custody assets. A safe custody investment is, in summary, a designated investment which a firm receives or holds on behalf of a client. Custody assets include designated investments, and any other assets that the firm holds or may hold in the same portfolio as a designated investment held for or on behalf of a client.

6.1.1B

(1) Firms to which the custody rules apply by virtue of CASS 6.1.1R (1B) or (1E) must also apply the custody rules to those custody assets which are not safe custody investments in a manner appropriate to the nature and value of those custody assets.

(2) Firms to which the custody rules apply by virtue of CASS 6.1.1R (1C) must also apply the custody rules:

(a) to those custody assets which are not AIF custodial assets but are safe custody investments; and

(b) in a manner appropriate to the nature and value of those custody assets, to those custody assets which are neither AIF custodial assets nor safe custody investments.

(3) Firms to which the custody rules apply by virtue of CASS 6.1.1R (1D) must also apply them:

(a) to those custody assets which are not UCITS custodial assets but are safe custody investments; and

(b) in a manner appropriate to the nature and value of those custody assets, to those custody assets which are neither UCITS custodial assets nor safe custody investments.

6.1.1C

In accordance with article 42 of the Regulated Activities Order, a firm (“I”) will not be arranging safeguarding and administration of assets if it introduces a client to another firm whose permitted activities include the safeguarding and administration of investments, or to an exempt person acting as such, with a view to that other firm or exempt person:

(1) providing a safe custody service in the United Kingdom; or

(2) arranging for the provision of a safe custody service in the United Kingdom by another person;

and the other firm, exempt person or other person who is to provide the safe custody service is not in the same group as I, and does not remunerate I.

6.1.2

Firms are reminded that dividends (actual or payments in lieu), stock lending fees and other payments received for the benefit of a client, and which are due to the clients, should be held in accordance with the client money chapter where appropriate.

6.1.3

[deleted]
Business in the name of the firm

6.1.4  R
The custody rules do not apply where a firm carries on business in its name but on behalf of the client where that is required by the very nature of the transaction and the client is in agreement.

[Note: recital 51 to MiFID]

6.1.5  G
For example, this chapter does not apply where a firm borrows safe custody assets from a client as principal under a stock lending agreement.

Title transfer collateral arrangements

6.1.6  R
(1) [deleted]
(2) [deleted]

A firm must not enter into a TTCA in respect of an asset belonging to a retail client.

Where a firm entered into a TTCA in respect of an asset belonging to a retail client (or one which would belong to a retail client but for the arrangement) before 3 January 2018, the firm must terminate that TTCA.

[Note: article 16(10) of MiFID and article 5(5) of the MiFID Delegated Directive]

Except for CASS 6.1.6R to CASS 6.1.9G and provided that the TTCA is not with a retail client, the custody rules do not apply to a firm in respect of an asset which is subject to a TTCA and which would otherwise be a safe custody asset.

[Note: recital 52 to MiFID]

6.1.6A  R
[deleted]

6.1.6B  R
(1) A firm must ensure that any TTCA is the subject of a written agreement made on a durable medium between the firm and the client.
(2) Regardless of the form of the agreement in (1) (which may have additional commercial purposes), it must cover the client’s agreement to:

(a) the terms for the arrangement relating to the transfer of the client’s full ownership of the safe custody asset to the firm;
(b) any terms under which the ownership of the safe custody asset is to transfer from the firm back to the client; and
(c) (to the extent not covered by the terms under (b)), any terms for the termination of:
   (i) the arrangement under (a); or
   (ii) the overall agreement in (1).

(3) A firm must retain a copy of the agreement under (1) from the date the agreement is entered into and until five years after the agreement is terminated.

6.1.6C

The terms referred to in CASS 6.1.6BR (2)(b) may include, for example, terms under which the arrangement relating to the transfer of full ownership of the safe custody asset to the firm is not in effect from time to time, or is contingent on some other condition.

6.1.6D

(1) A firm must properly consider and document the use of TTCAs in the context of:

(a) the relationship between the client’s obligation to the firm; and
(b) the safe custody assets subjected to TTCAs by the firm.

(2) A firm must be able to demonstrate that it has complied with the requirement under (1).

(3) When considering, and documenting, the appropriateness of the use of TTCAs, a firm must take into account the following factors:

(a) whether there is only a very weak connection between the client’s obligation to the firm and the use of TTCAs, including whether the likelihood of a client’s liability to the firm is low or negligible;
(b) the extent by which the amount of safe custody assets subject to a TTCA is in excess of the client’s obligations (including where the TTCA applies to all safe custody assets from the point of receipt by the firm) and whether the client might have no obligations at all to the firm; and
(c) whether all the client’s safe custody assets are made subject to TTCAs, without consideration of what obligation the client has to the firm.

(4) Where a firm uses a TTCA, it must highlight to the client the risks involved and the effect of any TTCA on the client’s safe custody assets.

[Note: article 6 of the MiFID Delegated Directive]
A firm may choose to combine its client communication under CASS 6.1.6DR(4) with any communication made in order to comply with article 15.1(a)(ii) of the SFTR or CASS 9.3.1R(2)(d).

Firms are reminded of the client’s best interests rule, which requires them to act honestly, fairly and professionally in accordance with the best interests of their clients when structuring their business particularly in respect of the effect of that structure on firms’ obligations under this chapter.

Termination of title transfer collateral arrangements

(1) If a client communicates to a firm that it wishes (whether pursuant to a contractual right or otherwise) to terminate a TTCA and the client’s communication is not in writing, the firm must make a written record of the client’s communication which also records the date the communication was received.

(2) A firm must keep a client’s written communication, or a written record of the client’s communication in (1), for five years, starting from the date the communication was received by the firm.

(3) (a) If a firm agrees to the termination of a TTCA, it must notify the client of its agreement in writing. The notification must state when the termination is to take effect and whether or not the client’s safe custody asset will be held under the custody rules by the firm thereafter.

(b) If a firm does not agree to terminate a TTCA, it must notify the client of its disagreement in writing.

(4) A firm must keep a written record of any notification it makes to a client under CASS 6.1.8AR (3)(a) for a period of five years, starting from the date the notification was made.

CASS 6.1.8AR (3)(a) refers only to a firm’s agreement to terminate an existing TTCA. Such agreement by a firm does not necessarily need to amount to the termination of its entire agreement with the client.

When a firm notifies a client under CASS 6.1.8AR (3)(a) of when the termination of a TTCA is to take effect, it should take into account:

(1) any relevant terms relating to such a termination that have been agreed with the client; and

(2) the period of time it reasonably requires to return the safe custody asset to the client or to update the registration under (Holding of client assets) CASS 6.2 and update its records under CASS 6.6 (Records, accounts and reconciliations).
6.1.8D If a TTCA is terminated, then the exemption at CASS 6.1.6R(4) no longer applies.

6.1.8E (1) Following the termination of a TTCA, where a firm does not immediately return the safe custody assets to the client the firm should consider whether the custody rules apply in respect of the safe custody assets pursuant to CASS 6.1.1R.

(2) Where the custody rules apply to a firm for safe custody assets in these circumstances then the firm is required to comply with those rules and should, for example, update the registration under CASS 6.2(Holding of client assets), update its records under CASS 6.6 (Records, accounts and reconciliations) and treat any shortfall in accordance with CASS 6.6.54 R (in each case as appropriate).

6.1.9 Firms are reminded that, in certain cases, the collateral rules apply where a firm receives collateral from a client in order to secure the obligations of the client.

Prime brokerage agreements

6.1.9A A prime brokerage firm is reminded of the additional obligations in CASS 9.3.1 R which apply to prime brokerage agreements.

Affiliated companies - MiFID business

6.1.10 The fact that a client is an affiliated company in respect of MiFID business does not affect the operation of the custody rules in relation to that client.

Affiliated companies - non-MiFID business

6.1.10A [deleted]

6.1.10B In respect of a firm’s business falling under CASS 6.1.1R (1B), the custody rules do not apply to the firm when it is safeguarding and administering investments on behalf of an affiliated company, unless:

(1) the firm has been notified that the designated investment belongs to a client of the affiliated company; or

(2) the affiliated company is a client dealt with at arm’s length.

6.1.11 [deleted]

Delivery versus payment transaction exemption

6.1.12 (1) Subject to (2) and CASS 6.1.12B R and with the written agreement of the relevant client, a firm need not treat this chapter as applying in respect of a delivery versus payment transaction through a commercial settlement system if:
Section 6.1: Application

(a) in respect of a client's purchase, the firm intends for the asset in question to be due to the client within one business day following the client's fulfilment of its payment obligation to the firm; or

(b) in respect of a client's sale, the firm intends for the asset in question to be due to the firm within one business day following the firm's fulfilment of its payment obligation to the client.

(2) If the payment or delivery by the firm to the client has not occurred by the close of business on the third business day following the date on which a firm makes use of the exemption under (1), the firm must stop using that exemption for the transaction.

(3) If the period referred to in CASS 6.1.12R (2) has expired before such a delivery versus payment transaction through a commercial settlement system has settled, a firm may, until settlement and provided that doing so is consistent with the firm's permissions and it complies with (4), segregate the firm's own money as client money (in accordance with the client money rules) of an amount equivalent to the value at which that safe custody asset is reasonably expected to settle instead of holding the client's safe custody assets (in accordance with the custody rules).

(4) Where a firm intends to segregate money as client money instead of the client's safe custody asset under (3) it must, before doing so, ensure that this would result in money being held for the relevant client in respect of the shortfall under CASS 7.17.2R (statutory trust).

(5) Where a firm segregates an amount of client money instead of the client's safe custody assets under (3) it must also:

(a) ensure the money is segregated under CASS 7.13 (Segregation of client money) and recorded as being held for the relevant client(s) under CASS 7.15 (Records, accounts and reconciliations);

(b) keep a record of the actions the firm has taken under this rule which includes a description of the safe custody asset in question, identifies the relevant affected client, and specifies the amount of money that the firm has appropriated as client money to cover the value of the safe custody asset; and

(c) update the record made under (5)(b) when the transaction in question has settled and the firm has re-appropriated the money.

(1) The amount of client money a firm segregates for the purposes of CASS 6.1.12R (3) may be determined by the previous day's closing mark to market valuation of the relevant safe custody asset or, if in relation to a particular safe custody asset none is available, the most recent available valuation.

(2) Where a firm is segregating money for the purposes of CASS 6.1.12R (3) it should, as regularly as necessary, and having regard to Principle 10:

(a) review the value of the safe custody asset in question in line with (1); and

(b) where the firm has found that the value of the safe custody asset has changed, adjust the amount of money it has appropriated to
ensure that these monies are sufficient to cover the latest value of the safe custody asset.

6.1.12B R A firm cannot, in respect of a particular delivery versus payment transaction, make use of the exemption under CASS 6.1.12 R in either or both of the following circumstances:

(1) it is not a direct member or participant of the relevant commercial settlement system, nor is it sponsored by such a member or participant, in accordance with the terms and conditions of that commercial settlement system;

(2) the transaction in question is being settled by another person on behalf of the firm through an account held at the relevant commercial settlement system by that other person.

6.1.12C G Where a firm does not meet the requirements in CASS 6.1.12 R or CASS 6.1.12B R for use of the exemption in CASS 6.1.12 R, the firm is subject to the custody rules in respect of any safe custody asset it holds in connection with the delivery versus payment transaction in question.

6.1.12D G (1) In line with CASS 6.1.12 R, where a firm receives a safe custody asset from a client in respect of a delivery versus payment transaction the firm is carrying out through a commercial settlement system in respect of a client's sale, and the firm has not fulfilled its payment obligation to the client by close of business on the third business day following the date of the client's fulfilment of its delivery obligation to the firm, the firm should consider whether the custody rules apply in respect of the safe custody asset pursuant to CASS 6.1.1R (1A) to CASS 6.1.1R (1D).

(2) Upon settlement of a delivery versus payment transaction a firm is carrying out through a commercial settlement system (including when it is settled within the three business day period referred to in CASS 6.1.12 R), in respect of:

(a) a client's purchase, the custody rules apply to the relevant safe custody asset the firm receives upon settlement; and

(b) a client's sale, the client money rules will apply to the relevant money received on settlement.

6.1.12E R (1) If a firm makes use of the exemption under CASS 6.1.12 R, it must obtain the client's written agreement to the firm's use of this exemption.

(2) In respect of each client, the written agreement in (1) must be retained during the time that the firm makes use, or intends to make use, of the exemption under CASS 6.1.12 R in respect of that client's safe custody assets.

6.1.13 G [deleted]
6.1.14 [deleted]

6.1.15

**Temporary handling of safe custody assets**

The custody rules do not apply if a firm temporarily handles a safe custody asset belonging to a client. A firm should temporarily handle a safe custody asset for no longer than is reasonably necessary. In most transactions this would be no longer than one business day, but it may be longer or shorter depending upon the transaction in question. For example, when a firm executes an order to sell shares which have not been registered on a de-materialised exchange, handling documents for longer periods may be reasonably necessary. However, in the case of safe custody assets in bearer form, the firm is expected to handle them for less than one business day. When a firm temporarily handles safe custody assets, it is still obliged to comply with Principle 10 (Clients’ assets).

6.1.16

When a firm temporarily handles a safe custody asset, in order to comply with its obligation to act in accordance with Principle 10 (Clients’ assets), the following are guides to good practice:

1. A firm should keep the safe custody asset secure, record it as belonging to that client, and forward it to the client or in accordance with the client’s instructions as soon as practicable after receiving it; and
2. A firm should make and retain a record of the fact that the firm has handled that safe custody asset and of the details of the client concerned and of any action the firm has taken.

**Exemptions which do not apply to MiFID business**

6.1.16A The exemptions in CASS 6.1.16B R to CASS 6.1.16D G do not apply to a MiFID investment firm which holds financial instruments belonging to a client in the course of MiFID business.

6.1.16B [deleted]

**Managers of AIFs and UCITS**

6.1.16BA

1. The custody rules do not apply to a firm that is managing an AIF or managing a UK UCITS in relation to excluded custody activities, except where the firm is a small AIFM.

2. The custody rules can apply to a firm that is managing an AIF or managing a UK UCITS in relation to activities that are not excluded custody activities. For example, where the firm:

   a. holds financial instruments belonging to a client in the course of its MiFID business (see CASS 6.1.1R(1A)); or
   b. is safeguarding and administering investments, in the course of business that is not MiFID business (see CASS 6.1.1R(1B)).
**Personal investment firms**

6.1.16C

The *custody rules* do not apply to a *personal investment firm* when it temporarily holds a *designated investment*, other than in bearer form, belonging to a *client*, if the *firm*:

1. keeps it secure, records it as belonging to that *client*, and forwards it to the *client* or in accordance with the *client*’s instructions, as soon as practicable after receiving it;

2. retains the *designated investment* for no longer than the *firm* has taken reasonable steps to determine is necessary to check for errors and to receive the final *document* in connection with any series of transactions to which the *documents* relate; and

3. makes a record, which must then be retained for a period of 5 years after the record is made, of all the *designated investments* handled in accordance with (1) and (2) together with the details of the *clients* concerned and of any action the *firm* has taken.

6.1.16D

Administrative convenience alone should not lead a *personal investment firm* to rely on ▼ CASS 6.1.16C R. *Personal investment firms* should consider what is in the *client*’s interest and not rely on ▼ CASS 6.1.16C R as a matter of course.

**Trustees and depositaries (except depositaries of AIFs and UCITS)**

6.1.16E

The specialist regime in ▼ CASS 6.1.16F R to ▼ CASS 6.1.16I G does not apply to a *MiFID investment firm* which holds *financial instruments* belonging to a *client* in the course of *MiFID business*.

6.1.16F

When a *trustee firm* or *depositary* acts as a *custodian* for a *trust* or *collective investment scheme*, (except for a *firm* acting as *trustee* or *depositary* of an *AIF* and a *firm* acting as *trustee* or *depositary* of a *UK UCITS*), and:

1. the *trust* or *scheme* is established by written instrument; and

2. the *trustee firm* or *depositary* has taken reasonable steps to determine that the relevant law and provisions of the *trust instrument* or *scheme constitution* will provide protections at least equivalent to the *custody rules* for the *trust property* or *scheme property*;

the *trustee firm* or *depositary* need comply only with the *custody rules* listed in the table below.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 6.1.1 R to CASS 6.1.9 G and CASS 6.1.15 G to CASS 6.1.16C R</td>
<td>Application</td>
</tr>
<tr>
<td>CASS 6.1.16E R to CASS 6.1.16I G</td>
<td>Trustees and depositaries</td>
</tr>
<tr>
<td>CASS 6.1.22 G to CASS 6.1.24 G</td>
<td>General purpose</td>
</tr>
<tr>
<td>CASS 6.2.1 R and CASS 6.2.2 R</td>
<td>Protection of clients’ safe custody assets</td>
</tr>
<tr>
<td>CASS 6.2.3 R and CASS 6.2.3B G</td>
<td>Registration and recording of legal title</td>
</tr>
</tbody>
</table>
CASS 6 : Custody

Section 6.1 : Application

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 6.2.7 R</td>
<td>Holding</td>
</tr>
<tr>
<td>CASS 6.3.1 R to CASS 6.3.4B G</td>
<td>Depositing safe custody assets with third parties</td>
</tr>
<tr>
<td>CASS 6.4.1 R and CASS 6.4.2 G</td>
<td>Use of safe custody assets</td>
</tr>
<tr>
<td>CASS 6.6</td>
<td>Records, accounts and reconciliations</td>
</tr>
</tbody>
</table>

6.1.16G G The reasonable steps referred in ▬ CASS 6.1.16FR (2) could include obtaining an appropriate legal opinion to that effect.

6.1.16H R [deleted]

6.1.16I G A trustee firm or depositary that just arranges safeguarding and administration of assets may also take advantage of the exemption in ▬ CASS 6.1.16J R (Arrangers).

**Depositories of AIFs**

6.1.16IA R (1) Subject to (2), when a firm is acting as trustee or depositary of an AIF the firm need comply only with the custody rules in the table below:

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 6.1.1 R, CASS 6.1.9 G, CASS 6.1.9A G and CASS 6.1.16IB G</td>
<td>Application</td>
</tr>
<tr>
<td>CASS 6.1.22 G to CASS 6.1.24 G</td>
<td>General purpose</td>
</tr>
<tr>
<td>CASS 6.2.3 R and CASS 6.2.3B G to CASS 6.2.6 G</td>
<td>Registration and recording of legal title</td>
</tr>
<tr>
<td>CASS 6.2.7 R</td>
<td>Holding</td>
</tr>
<tr>
<td>CASS 6.6.2 R, CASS 6.6.4 R, CASS 6.6.6 R, CASS 6.6.7 R, CASS 6.6.57R (2) and CASS 6.6.58 G</td>
<td>Records, accounts and reconciliations</td>
</tr>
</tbody>
</table>

(2) When a firm is acting as trustee or depositary of an AIF that is an authorised AIF the firm must, in addition to the custody rules in (1), also comply with the custody rules in the table below:

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 6.1.1BR (2)</td>
<td>Application</td>
</tr>
</tbody>
</table>

6.1.16IB G Firms acting as trustee or depositary of an AIF are reminded of the obligations in ▬ FUND 3.11 (Depositaries) and Chapter IV (Depositary) of the AIFMD level 2 regulation which apply in addition to those in ▬ CASS 6.

6.1.16IC G A firm (Firm A) to which another firm acting as trustee or depositary of an AIF (Firm B) has delegated safekeeping functions in accordance with ▬ FUND 3.11.28 R (Delegation: safekeeping) will not itself be acting as trustee...
or depositary of an AIF for that AIF. ■ CASS 6.1.16IA R will not apply to Firm A in respect of that AIF. However, Firm A may be safeguarding and administering investments in respect of that AIF.

### Depositories of UCITS

When a firm is acting as trustee or depositary of a UK UCITS, the firm need comply only with the custody rules in the table below:

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 6.1.1R, CASS 6.1.9G, CASS 6.1.16IEG</td>
<td>Application</td>
</tr>
<tr>
<td>CASS 6.1.22G to CASS 6.1.24G</td>
<td>General purpose</td>
</tr>
<tr>
<td>CASS 6.2.3R, CASS 6.2.3AR, CASS 6.2.3BG, CASS 6.2.7R</td>
<td>Holding of client assets</td>
</tr>
<tr>
<td>CASS 6.6.2R, CASS 6.6.4AR, CASS 6.6.7R, CASS 6.6.41AG, CASS 6.6.57R(2A), CASS 6.6.58G</td>
<td>Records, accounts and reconciliations</td>
</tr>
</tbody>
</table>

### Arrangers

Only the custody rules in the table below apply to a firm when arranging safeguarding and administration of assets.

<table>
<thead>
<tr>
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<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 6.1.1R to CASS 6.1.9G and CASS 6.1.15G to CASS 6.1.16BR</td>
<td>Application</td>
</tr>
<tr>
<td>CASS 6.1.16J R</td>
<td>Arrangers</td>
</tr>
<tr>
<td>CASS 6.1.16K R</td>
<td>Records</td>
</tr>
<tr>
<td>CASS 6.1.22G to CASS 6.1.24G</td>
<td>General purpose</td>
</tr>
<tr>
<td>CASS 6.3.4AR and CASS 6.3.4BG</td>
<td>Third-party custody agreements</td>
</tr>
</tbody>
</table>

When a firm arranges safeguarding and administration of assets, it must ensure that proper records of the arrangements are made and retained for a period of 5 years after they are made.
### General purpose

**6.22** Principle 10 (Clients' assets) requires a firm to arrange adequate protection for clients' assets when it is responsible for them. As part of these protections, the custody rules require a firm to take appropriate steps to protect safe custody assets for which it is responsible.

**6.23** The rules in this chapter are designed primarily to restrict the commingling of client and the firm's assets and minimise the risk of the client's safe custody assets being used by the firm without the client's agreement or contrary to the client's wishes, or being treated as the firm's assets in the event of its insolvency.

**6.24** The custody rules also, where relevant, implemented the provisions of MiFID which regulated the obligations of a firm when it held financial instruments belonging to a client in the course of its MiFID business.
6.2 Holding of client assets

Requirement to protect clients’ safe custody assets

6.2.1 A firm must, when holding safe custody assets belonging to clients, make adequate arrangements so as to safeguard clients’ ownership rights, especially in the event of the firm’s insolvency, and to prevent the use of safe custody assets belonging to a client on the firm’s own account except with the client’s express consent.

[Note: article 16(8) of MiFID]

Requirement to have adequate organisational arrangements

6.2.2 A firm must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of clients’ safe custody assets, or the rights in connection with those safe custody assets, as a result of the misuse of the safe custody assets, fraud, poor administration, inadequate record-keeping or negligence.

[Note: article 2(1)(f) of the MiFID Delegated Directive]

Registration and recording of legal title

6.2.3 Subject to CASS 6.2.3A-1R, a firm must effect appropriate registration or recording of legal title to a safe custody asset belonging to a client in the name of:

1. the client, unless the client is an authorised person acting on behalf of its client, in which case it may be registered in the name of the client of that authorised person;
2. a nominee company which is controlled by:
   a. the firm;
   b. an affiliated company;
   c. a recognised investment exchange; or
   d. a third party with whom financial instruments are deposited under CASS 6.3 (Depositing assets and arranging for assets to be deposited with third parties);
3. any other third party, if the firm is not a trustee firm but is prevented from registering or recording legal title in the way set out in (1) or (2) and provided that:
(a) the safe custody asset is subject to the law or market practice of a jurisdiction outside the United Kingdom and the firm has taken reasonable steps to determine that it is in the client’s best interests to register or record it in that way, or that it is not feasible to do otherwise, because of the nature of the applicable law or market practice; and

(b) the firm has notified the client in writing;

(4) the firm if either:

(a) it is not a trustee firm but is prevented from registering or recording legal title in the way set out in (1), (2) or (3) and provided that:

(i) the safe custody asset is subject to the law or market practice of a jurisdiction outside the United Kingdom and the firm has taken reasonable steps to determine that it is in the client’s best interests to register or record it in that way, or that it is not feasible to do otherwise, because of the nature of the applicable law or market practice; and

(ii) the firm has notified the client if a professional client, or obtained prior written consent if a retail client.

(b) it is a trustee firm and is prevented from registering or recording legal title in the way set out in (1) or (2).

A firm need not comply with CASS 6.2.3 R for any safe custody asset:

(1) that it has deposited with a third party in accordance with CASS 6.3 (Depositing assets and arranging for assets to be deposited with third parties); and

(2) for which, because of the arrangements with that third party for depositing the safe custody asset, it is not practicable for the firm to effect appropriate registration or recording of legal title itself.

If:

(1) the safe custody asset is an emission auction product that is a financial instrument; and

(2) it is not practicable or possible for a firm to effect registration or recording of legal title in this asset in the manner set out in CASS 6.2.3 R,

the firm must register or record legal title in its name provided it has notified the client in writing.

A firm, when complying with CASS 6.2.3R (3) or CASS 6.2.3R (4)(a), will be expected to demonstrate that adequate investigations have been made of the jurisdiction concerned by reference to local sources, which may include an appropriate legal opinion.
A firm must accept the same level of responsibility to its client for any nominee company controlled by the firm, or any nominee company controlled by an affiliated company of the firm, with respect of any requirements of the custody rules.

A firm may only register or record legal title to its own applicable asset in the same name as that in which legal title to a client's safe custody asset is registered or recorded if the firm's applicable asset is separately identified from the client’s safe custody asset in the firm’s records, and either or both of the conditions in (1) and (2) are met.

(1) The firm's holding of its own applicable asset arises incidentally to:

(a) designated investment business it carries on for the account of any client; or

(b) steps taken by the firm to comply with an applicable custody rule; and, in the case of either (a) or (b), the situation where registration or recording of legal title of the firm's applicable asset is in the same name as the client's safe custody asset under this rule remains in place only to the extent that it is reasonably necessary.

(2) The registration or recording of legal title of the firm's own applicable asset in the same name as the client's safe custody asset is only as a result of the law or market practice of a jurisdiction outside of the United Kingdom.

A firm must ensure that any documents of title to applicable assets in bearer form, belonging to the firm and which it holds in its physical possession, are
kept separately from any document of title to a client's safe custody assets in bearer form.

Allocated but unclaimed safe custody assets

6.2.7A R  ■ CASS 6.2.8G to ■ CASS 6.2.16G do not apply to a firm following its failure.

6.2.7B G  ■ CASS 6.7.2R to ■ CASS 6.7.7R (Disposal of safe custody assets) applies to a firm following its failure in respect of allocated but unclaimed safe custody assets.

6.2.8 G  The purpose of ■ CASS 6.2.10 R is to set out the requirements a firm must comply with if it chooses to divest itself of a client's unclaimed safe custody assets.

6.2.9 G  Before acting in accordance with ■ CASS 6.2.10 R to ■ CASS 6.2.16 G, a firm should consider whether its actions are permitted by law and consistent with the arrangements under which the safe custody assets are held. These provisions relate to a firm's obligations as an authorised person.

6.2.10 R  A firm may either (i) liquidate an unclaimed safe custody asset it holds for a client, at market value, and pay away the proceeds or (ii) pay away an unclaimed safe custody asset it holds for a client, in either case, to a registered charity of its choice provided:

1. this is permitted by law and consistent with the arrangements under which that safe custody asset is held;

2. it has held that safe custody asset for at least 12 years;

3. in the 12 years preceding the divestment of that safe custody asset, it has not received instructions relating to any safe custody assets from or on behalf of the client concerned;

4. it can demonstrate that it has taken reasonable steps to trace the client concerned and return that safe custody asset; and

5. the firm complies with ■ CASS 6.2.14 R: the undertaking requirement.

6.2.11 E  (1) Taking reasonable steps in ■ CASS 6.2.10R (4) includes following this course of conduct:

(a) determining, as far as reasonably possible, the correct contact details for the relevant client;

(b) writing to the client at the last known address either by post or by electronic mail to inform it:

(i) of the name of the firm with which the client first deposited the safe custody asset in question;

(ii) of the firm's intention to pay the safe custody asset to charity under ■ CASS 6.2.10 R if it does not receive instructions from the client within 28 days;
(c) where the client has not responded after the 28 days referred to in (b) attempting to communicate the information set out in (b) to the client on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;

(d) subject to (e) and (f), where the client has not responded within 28 days following the most recent communication, writing again to the client at the last known address either by post or by electronic mail to inform them that:

(i) as the firm received no instructions from the client, it will in 28 days pay the safe custody asset to charity under CASS 6.2.10 R; and

(ii) an undertaking will be provided by the firm or a member of its group to pay to the client concerned a sum equal to the value of the safe custody asset at the time it was liquidated or paid away in the event of the client seeking to claim the safe custody asset in future;

(e) if the firm has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the client is no longer at a particular address, the firm should not use that address for the purposes of (d);

(f) if, after carrying out the steps in (a), (b) and (c), the firm has obtained positive confirmation that none of the contact details it holds for the relevant client are accurate or, if utilised, the communication is unlikely to reach the client, the firm does not have to comply with (d); and

(g) waiting a further 28 days following the most recent communication under this rule before divesting itself of the safe custody asset under CASS 6.2.10 R.

(2) Compliance with (1) may be relied on as tending to establish compliance with CASS 6.2.10R (4).

(3) Contravention of (1) may be relied on as tending to establish contravention of CASS 6.2.10R (4).

**6.2.12** For the purpose of CASS 6.2.11E (1)(a), a firm may use any available means to determine the correct contact details for the relevant client, including telephoning the client, searching internal records, media advertising, searching public records, mortality screening, using credit reference agencies or tracing agents.

**6.2.13** Where a firm liquidates a safe custody asset under CASS 6.2.10 R, it must pay away the proceeds to charity as soon as practicable.

**6.2.14** Where a firm divests itself of a client’s safe custody asset under CASS 6.2.10 R, it must comply with either (1)(a) or (1)(b) and, in either case, (2).

1. (a) The firm must unconditionally undertake to pay to the client concerned a sum equal to the value of the safe custody asset at
the time it was liquidated or paid away in the event of the client seeking to claim the safe custody asset in future.

(b) The firm must ensure that an unconditional undertaking in the terms set out in (1)(a) is made by a member of its group and there is suitable information available for relevant clients to identify the member of the group granting the undertaking.

(2) Any undertaking under this rule must be:

(a) authorised by the firm’s governing body where (1)(a) applies or the governing body of the group member where (1)(b) applies;

(b) legally enforceable by any person that had a legally enforceable claim to the unclaimed safe custody asset in question at the time it was divested by the firm, or by an assign or successor in title to such claim; and

(c) retained by the firm, and, where (1)(b) applies, by the group member, indefinitely.

6.2.15

(1) If a firm pays away a client’s unclaimed safe custody assets to charity or liquidates a client’s unclaimed safe custody assets and pays the proceeds to charity under CASS 6.2.10 R it must make and retain, or where the firm already has such records, retain:

(a) records of all safe custody assets divested under CASS 6.2.10 R (including details of the value of each asset at that time and the identity of the client to whom the asset was allocated);

(b) all relevant documentation (including charity receipts); and

(c) details of the communications the firm had or attempted to make with the client concerned pursuant to CASS 6.2.10R (4).

(2) Records in (1) must be retained indefinitely.

(3) If a member of the firm’s group has provided an undertaking under CASS 6.2.14R (1)(b) then the records in (1) must be readily accessible to that group member.

Costs associated with divesting allocated but unclaimed client assets

6.2.16

Any costs associated with the firm divesting itself of safe custody assets pursuant to CASS 6.2.10 R to CASS 6.2.15 R should be paid for from the firm’s own funds, including:

(1) any costs associated with the firm carrying out the steps in CASS 6.2.10R (4) or CASS 6.2.11 E; and

(2) the cost of any insurance purchased by a firm or the relevant member of its group to cover any legally enforceable claim in respect of the assets divested under CASS 6.2.10 R.
6.3 Depositing assets and arranging for assets to be deposited with third parties

**Depositing safe custody assets with third parties**

6.3.1 R

1. A *firm* may deposit *safe custody assets* held by it on behalf of its *clients* into an account or accounts opened with a third party, but only if it exercises all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those *safe custody assets*.

   (1A) [deleted]

2. [deleted]

3. When a *firm* makes the selection, appointment and conducts the periodic review referred to under this *rule*, it must take into account:

   a. the expertise and market reputation of the third party; and

   b. any legal requirements related to the holding of those *safe custody assets* that could adversely affect clients' rights.

   (4) [deleted]

[Note: article 3(1) of the *MiFID Delegated Directive*]

6.3.2 G

In discharging its obligations under ■CASS 6.3.1 R, a *firm* should also consider, as appropriate, together with any other relevant matters:

1. the third party's performance of its services to the *firm*;

2. the arrangements that the third party has in place for holding and safeguarding the *safe custody asset*;

2A market practices related to the holding of the *safe custody asset* that could adversely affect clients' rights.

3. current industry standard reports, for example "Assurance reports on internal controls of services organisations made available to third parties" made in line with Technical Release AAF 01/06 of The Institute of Chartered Accountants in England and Wales or equivalent;

4. the capital or financial resources of the third party;
(5) the credit-worthiness of the third party;

(6) any other activities undertaken by the third party and, if relevant, any affiliated company; and

(7) whether the third party has the appropriate regulatory permissions.

6.3.2A R

(1) A firm must make a record of the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a third party under CASS 6.3.1 R. The firm must make the record on the date it makes the selection or appointment and must keep it from that date until five years after the firm ceases to use the third party to hold safe custody assets belonging to clients.

(2) A firm must make a record of each periodic review of its selection and appointment of a third party that it conducts under CASS 6.3.1 R, its considerations and conclusions. The firm must make the record on the date it completes the review and must keep it from that date until five years after the firm ceases to use the third party to hold safe custody assets belonging to clients.

6.3.3 G [deleted]

6.3.4 R

(1) Subject to (2), a firm must only deposit safe custody assets with a third party in a jurisdiction which specifically regulates and supervises the safekeeping of safe custody assets for the account of another person with a third party who is subject to such regulation.

(2) A firm must not deposit safe custody assets held on behalf of a client with a third party in a third country which does not regulate the holding and safekeeping of safe custody assets for the account of another person unless:

(a) the nature of the safe custody assets or of the investment services connected with those safe custody assets requires them to be deposited with a third party in that third country, or

(b) the safe custody assets are held on behalf of a professional client and the client requests the firm in writing to deposit them with a third party in that third country.

(3) [deleted]

(a) [deleted]

(b) [deleted]

(i) [deleted]

(ii) [deleted]

(iii) [deleted]

(4) The requirements under paragraphs (1) and (2) of this rule also apply when the third party has delegated any of its functions concerning
the holding and safekeeping of safe custody assets to another third party.

[Note: article 3(2)-(4) of the MiFID Delegated Directive]

6.3.4A-2 G

CASS 6.3.4R(4) applies to a firm which deposits a safe custody asset into an account opened with a third party under CASS 6.3.1R(1). It is therefore possible for more than one firm in a chain of custody to be subject to CASS 6.3.4R(4) in respect of the same safe custody asset.

6.3.4A-1 R

A firm must take the necessary steps to ensure that any client's safe custody assets deposited with a third party are identifiable separately from the applicable assets belonging to the firm and from the applicable assets belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection.

[Note: article 2(1)(d) of the MiFID Delegated Directive]

Third-party custody agreements

6.3.4A R

A firm must have entered into a written agreement with any person with whom it deposits clients' safe custody assets under CASS 6.3.1 R, or with whom it arranges safeguarding and administration of assets which are clients' safe custody assets. This agreement must, at minimum:

1. set out the binding terms of the arrangement between the firm and the third party;
2. be in force for the duration of that arrangement; and
3. clearly set out the custody service(s) that the third party is contracted to provide.

6.3.4B G

A firm should consider carefully the terms of any agreement entered into with a third party under CASS 6.3.4A R. The following terms are examples of the issues that should be addressed in these agreements (where relevant):

1. that the title of the account in the third party's books and records indicates that any safe custody asset credited to it does not belong to the firm;
2. that the third party will hold or record a safe custody asset belonging to the firm's client separately from any applicable asset belonging to the firm or to the third party;
3. the arrangements for registration or recording of the safe custody asset, if this will not be registered in the firm's client's name;
4. the restrictions over the circumstances in which the third party may withdraw assets from the account;
5. the procedures and authorities for the passing of instructions to, or by, the firm;
(6) the procedures for the claiming and receiving of dividends, interest payments and other entitlements accruing to the firm's client; and

(7) the provisions detailing the extent of the third party's liability in the event of the loss of a safe custody asset caused by the fraud, wilful default or negligence of the third party or an agent appointed by him.

6.3.5 [deleted]

6.3.6 [deleted]

6.3.6A (1) A firm must not grant any security interest, lien or right of set-off to another person over clients' safe custody assets that enable that other person to dispose of the safe custody assets in order to recover debts unless condition (a) or (b) is satisfied:

(a) those debts relate to:

(i) one or more of the firm's clients; or

(ii) the provision of services by that other person to one or more of the firm's clients; or

(b) to the extent those debts relate to anything else then:

(i) the security interest, lien or right of set-off is required by applicable law in a third country jurisdiction in which the safe custody assets are held;

(ii) the firm discloses information to the client so that the client is informed of the risks associated with these arrangements; and

(iii) the firm has taken reasonable steps to determine that holding safe custody assets subject to that security interest, lien or right of set-off is in the best interests of the firm's clients.

Where security interests, liens or rights of set-off are granted by a firm over safe custody assets, or where the firm has been informed that they are granted, these must be recorded in client contracts and the firm's own books and records to make the ownership status of safe custody assets clear, such as in the event of an insolvency.

[Note: article 2(4) of the MiFID Delegated Directive]

6.3.6B Under CASS 6.3.6AR(1)(a), a security interest, lien or right of set-off to facilitate the clearing or settlement of transactions referring to clients of the firm may be regarded as being granted in order to recover debts that relate to the provision of services to one or more clients.

6.3.6C (1) Under CASS 6.3.6AR(1)(b)(i) a security interest, lien or right of set-off may be regarded as being required by applicable law in a third country for example where:
(a) because of applicable law it is mandatory for such a security interest, lien or right of set-off to be given in order for the safe custody assets to be held in that third country; or

(b) (i) in the context of the service being provided for the firm’s client the applicable law of that third country requires the use of a central securities depositary, securities settlement system or central counterparty;

(ii) the rules of that central securities depositary, securities settlement system or central counterparty are subject to the oversight of a regulator that performs that function under the applicable law; and

(iii) those rules require such a security interest, lien or right of set-off to be given.

(2) But a firm should not grant a security interest, lien or right of set-off under CASS 6.3.6AR(1)(b)(i) that is wider than that under CASS 6.3.6AR(1)(a) where another person in a third country simply requests or demands this as a condition of business.

To comply with CASS 6.3.6AR(2) and in relation to any security interests, liens or rights of set-off over safe custody assets, a firm should ensure that:

(1) the written terms of its client contracts include the client’s agreement to another person having such a security interest, lien or right of set-off over the client’s assets; and

(2) its books and records are able to show the safe custody assets in respect of which the firm is aware that such security interests, liens, or rights of set-off exist.

CASS 6.3.6AR does not permit a firm to agree to a third party having any recourse or right against client money in a client bank account or standing to the credit of a client transaction account of the kind referred to in:

(1) paragraph (d) of CASS 7 Annex 2R; or

(2) paragraph (e) of CASS 7 Annex 3R; or

(3) paragraph (e) of CASS 7 Annex 4R.
6.4 Use of safe custody assets

6.4.1 (1) A firm must not enter into arrangements for securities financing transactions in respect of safe custody assets held by it on behalf of a client or otherwise use such safe custody assets for its own account or the account of any other person or client of the firm, unless:

(a) the client has given express prior consent to the use of the safe custody assets on specified terms; and

(b) the use of that client’s safe custody assets is restricted to the specified terms to which the client consents.

(2) A firm must not enter into arrangements for securities financing transactions in respect of safe custody assets held by it on behalf of a client in an omnibus account maintained by a third party, or otherwise use safe custody assets held in such an account for its own account or for the account of any other person unless, in addition to the conditions set out in (1):

(a) each client whose safe custody assets are held together in an omnibus account has given express prior consent in accordance with (1)(a); or

(b) the firm has in place systems and controls which ensure that only safe custody assets belonging to clients who have given express prior consent in accordance with (1)(a) are so used.

(3) For the purposes of obtaining the express prior consent of a client under this rule, the consent must be clearly evidenced in writing and the signature of the client or an equivalent alternative means of affirmative execution is required.

(4) [deleted]

[Note: article 5(1) and (2) of the MiFID Delegated Directive]

6.4.1A The FCA expects firms which enter into arrangements under CASS 6.4.1 R with retail clients to only enter into securities financing transactions and not otherwise use retail clients’ safe custody assets.

6.4.1B (1) Prior express consent by clients should be given and recorded by firms in order to allow the firm to demonstrate clearly what the client agreed to and to help clarify the status of safe custody assets.
(2) Clients’ consent may be given once at the start of the commercial relationship, as long as it is sufficiently clear that the client has consented to the use of their safe custody assets.

(3) Where a firm is acting on a client instruction to lend safe custody assets and where this constitutes consent to entering into the transaction, the firm should hold evidence to demonstrate this.

[Note: recital 10 to the MiFID Delegated Directive]

6.4.1 C A firm must take appropriate measures to prevent the unauthorised use of safe custody assets for its own account or the account of any other person, such as:

(1) the conclusion of agreements with clients on measures to be taken by the firm in case the client does not have enough provision on its account on the settlement date, such as borrowing of the corresponding securities on behalf of the client or unwinding the position;

(2) the close monitoring by the firm of its projected ability to deliver on the settlement date;

(3) the putting in place of remedial measures if the firm cannot deliver on the settlement date; and

(4) the close monitoring and prompt requesting of undelivered securities outstanding on the settlement day and beyond.

[Note: article 5(3) of the MiFID Delegated Directive]

6.4.1 D Examples of remedial measures in CASS 6.4.1CR(3) can be found in CASS 6.6.54R.

6.4.2 G Firms are reminded of the client’s best interests rule, which requires the firm to act honestly, fairly and professionally in accordance with the best interests of their clients. For any transactions involving retail clients carried out under this section the FCA expects that:

(1) the firm ensures that relevant collateral is provided by the borrower in favour of the client;

(2) the current realisable value of the safe custody asset and of the relevant collateral is monitored daily; and

(3) the firm provides relevant collateral to make up the difference where the current realisable value of the collateral falls below that of the safe custody asset, unless otherwise agreed in writing by the client.

6.4.2 A A firm must adopt specific arrangements for all clients to ensure that the borrower of client safe custody assets provides the appropriate collateral and that the firm monitors the continued appropriateness of such collateral and
takes the necessary steps to maintain the balance with the value of the client safe custody assets.

[Note: article 5(4) of the MiFID Delegated Directive]

6.4.2B The requirement to monitor collateral under CASS 6.4.2AR applies to a firm where it is party to a securities financing transaction, including when acting as an agent for the conclusion of a securities financing transaction or in the case of a tripartite transaction between a borrower, a client and the firm.

[Note: recital 9 to the MiFID Delegated Directive]

6.4.3 Where a firm uses safe custody assets as permitted in this section, the records of the firm must include details of the client on whose instructions the use of the safe custody assets has been effected, as well as the number of safe custody assets used belonging to each client who has given consent, so as to enable the correct allocation of any loss.

[Note: article 5(2), second sub-paragraph of the MiFID Delegated Directive]
6.6 Records, accounts and reconciliations

Records and accounts

6.6.1 G This section sets out the requirements a firm must meet when keeping records and accounts of the safe custody assets it holds for clients.

6.6.2 R A firm must keep such records and accounts as necessary to enable it at any time and without delay to distinguish safe custody assets held for one client from safe custody assets held for any other client, and from the firm's own applicable assets.

[Note: article 2(1)(a) of the MiFID Delegated Directive]

6.6.3 R A firm must maintain its records and accounts in a way that ensures their accuracy, and in particular their correspondence to the safe custody assets held for clients and that they may be used as an audit trail.

[Note: article 2(1)(b) of the MiFID Delegated Directive]

6.6.4 R A firm must maintain a client-specific safe custody asset record.

6.6.5 G The requirements in R CASS 6.6.2 R to R CASS 6.6.4 R are for a firm to keep internal records and accounts of clients' safe custody assets. Therefore any records falling under those requirements should be maintained by the firm, and should be separate to any records the firm may have obtained from any third parties, such as those with whom it may have deposited, or through whom it may have registered legal title to, clients' safe custody assets.

The FCA expects that compliance by a firm with CASS 6.6 as a whole (to the extent applicable to that firm) will be sufficient to comply with the requirement under R CASS 6.6.3R to maintain its records and accounts in a way that ensures they may be used as an audit trail.

Right to use agreements

6.6.6 R A firm must keep a copy of every executed client agreement that includes that firm's right to use safe custody assets for its own account (see R CASS 6.4.1 R), including in the case of a prime brokerage agreement the disclosure annex referred to in R CASS 9.3.1 R.
General record-keeping

6.6.7 R
Unless otherwise stated, a firm must ensure that any record made under the custody rules is retained for a period of five years starting from the later of:

1. the date it was created; and
2. (if it has been modified since the date it was created), the date it was most recently modified.

6.6.8 R
For each internal custody record check, each physical asset reconciliation and each external custody reconciliation carried out by a firm, it must make a record including:

1. the date it carried out the relevant process;
2. the actions the firm took in carrying out the relevant process; and
3. a list of any discrepancies the firm identified and the actions the firm took to resolve those discrepancies.

Policies and procedures

6.6.9 G
Firms are reminded that they must, under SYSC 6.1.1 R, establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the firm with the rules in this chapter. This should include, for example, establishing and maintaining policies and procedures concerning:

1. the frequency and method of the checks and reconciliations the firm is required to carry out under this section;
2. the frequency with which the firm is required to review its arrangements in compliance with this chapter; and
3. the resolution of discrepancies and the treatment of shortfalls under this section.

Internal custody record checks

6.6.10 G
1. An internal custody record check is one of the steps a firm takes to satisfy its obligations under:
   a. Principle 10 (Clients’ assets);
   b. CASS 6.2.2 R (Requirement to have adequate organisational arrangements);
   c. CASS 6.6.2 R to CASS 6.6.4 R (Records and accounts); and
   d. where relevant, SYSC 4.1.1 R (General requirements) and SYSC 6.1.1 R (Compliance).

2. An internal custody record check is a check as to whether the firm’s records and accounts of the safe custody assets held by the firm (including, for example, those deposited with third parties under CASS 6.3 (Depositing safe custody assets with third parties)) correspond with the firm’s obligations to its clients to hold those safe custody assets.
6.6.10A  ■ CASS 6.6.11R does not apply to a firm following its failure.

6.6.10B  ■ CASS 6.6.46AR (Frequency of checks and reconciliations after failure) applies to a firm following its failure.

6.6.11  (1) A firm must perform an internal custody record check:

   (a) subject to paragraph (2), as regularly as is necessary but without allowing more than one month to pass between each internal custody record check; and

   (b) as soon as reasonably practicable after the date to which the internal custody record check relates.

   (2) A firm that holds no safe custody assets other than physical safe custody assets must perform an internal custody record check as regularly as necessary but, in any case, no less often than its physical asset reconciliations under ■ CASS 6.6.22 R.

6.6.12  ■ CASS 6.6.44 R sets out the matters which a firm must have regard to when determining the frequency at which to undertake an internal custody record check.

6.6.13  A firm must perform an internal custody record check using either the internal custody reconciliation method or the internal system evaluation method. It must not use a combination of these methods.

6.6.14  A firm must only use its internal records (for example its depot and client-specific ledgers for safe custody assets or other internal accounting records) in order to perform an internal custody record check.

6.6.15  ■ CASS 6.6.14 R means that a firm must not base its internal custody record checks on any records that the firm may have obtained from any third parties, such as those with whom it may have deposited, or through whom it may have registered legal title to, clients' safe custody assets.

The internal custody reconciliation method for internal custody record checks

6.6.16  A firm may only use the internal custody reconciliation method if:

   (1) it separately maintains an aggregate safe custody asset record and a client-specific safe custody asset record; and

   (2) its aggregate safe custody asset record and its client-specific safe custody asset record are capable of being compared.

6.6.17  The internal custody reconciliation method requires a firm to perform a comparison between its aggregate safe custody asset record and its client-specific safe custody asset record, as at the date of the internal custody record check.
The internal system evaluation method for internal custody record checks

6.6.18

(1) The internal system evaluation method is available to any firm, including one that is not able to use the internal custody reconciliation method because it does not meet the requirements at ■ CASS 6.6.16R (1) and ■ CASS 6.6.16R (2).

(2) The purpose of the internal system evaluation method is to detect weaknesses in a firm’s systems and controls and any recordkeeping discrepancies. However, this method is not designed to substitute a firm’s other measures for ensuring compliance with the custody rules, such as monitoring the accuracy of its records (see also ■ CASS 6.2.2 R and ■ CASS 6.6.3 R).

6.6.19

The internal system evaluation method requires a firm to:

(1) establish a process that evaluates:

(a) the completeness and accuracy of the firm’s internal records and accounts of safe custody assets held by the firm for clients, in particular whether sufficient information is being completely and accurately recorded by the firm to enable it to:

(i) comply with ■ CASS 6.6.4 R; and

(ii) readily determine the total of all the safe custody assets that the firm holds for its clients; and

(b) whether the firm’s systems and controls correctly identify and resolve all discrepancies in its internal records and accounts of safe custody assets held by the firm for clients;

(2) run the evaluation process established under (1) on the date of each internal custody record check; and

(3) promptly investigate and, without undue delay, resolve any causes of discrepancies that the evaluation process reveals.

6.6.20

The evaluation process under ■ CASS 6.6.19R (1) should verify that the firm’s systems and controls correctly identify and resolve at least the following types or causes of discrepancies:

(1) items in the firm’s records and accounts that might be erroneously overstating or understating the safe custody assets held by a firm (for example, ‘test’ entries and ‘balancing’ entries);

(2) negative balances;

(3) processing errors;

(4) journal entry errors (eg, omissions and unauthorised system entries); and

(5) IT errors (eg, software issues that could lead to inaccurate records).
Physical asset reconciliations

6.6.21 (1) A physical asset reconciliation is a separate process to the internal custody record check. Firms that hold physical safe custody assets for clients are required to perform both processes.

(2) The purpose of a physical asset reconciliation is to check that a firm’s internal records and accounts of the physical safe custody assets kept by the firm for clients are accurate and complete, and to ensure any discrepancies are investigated and resolved.

6.6.21A ■ CASS 6.6.22R does not apply to a firm following its failure.

6.6.21B ■ CASS 6.6.46AR (Frequency of checks and reconciliations after failure) applies to a firm following its failure.

6.6.22 A firm that holds physical safe custody assets must perform a physical asset reconciliation for all the physical safe custody assets it holds for clients:

(1) as regularly as is necessary but without allowing more than six months to pass between each physical asset reconciliation; and

(2) as soon as reasonably practicable after the date to which the physical asset reconciliation relates.

6.6.23 ■ CASS 6.6.44 R sets out the matters which a firm must have regard to when determining the frequency at which to undertake a physical asset reconciliation.

6.6.24 When performing a physical asset reconciliation a firm must:

(1) count all the physical safe custody assets held by the firm for clients as at the date to which the physical asset reconciliation relates; and

(2) compare the count in (1) against what the firm’s internal records and accounts state as being in the firm’s possession as at the same date.

6.6.25 A firm must perform each physical asset reconciliation under ■ CASS 6.6.24 R using the total count method or the rolling stock method.

6.6.26 Regardless of the method used, a firm should ensure that all safe custody assets held by the firm as physical safe custody assets for clients are subject to a physical asset reconciliation at the frequency required under ■ CASS 6.6.22 R.

6.6.27 If a firm completes a physical asset reconciliation in a single stage, such that the firm:
(1) performs a single count under CASS 6.6.24R (1) which encompasses all the physical safe custody assets held by the firm for clients as at the date to which the physical asset reconciliation relates; and

(2) compares that count against the firm's internal records and accounts in accordance with CASS 6.6.24R (2);

then the firm will have used the total count method for that physical asset reconciliation.

6.6.28 R If a firm completes a physical asset reconciliation in two or more stages, such that the firm:

(1) performs two or more counts under CASS 6.6.24R (1) (each on a separate occasion and relating to a different stock line or group of stock lines forming part of the firm's overall holdings of physical safe custody assets) which, once all of the counts are complete, encompass all the physical safe custody assets held by the firm for clients; and

(2) compares each of those counts against the firm's internal records and accounts in accordance with CASS 6.6.24R (2);

then the firm will have used the rolling stock method for that physical asset reconciliation.

6.6.29 G (1) The rolling stock method allows a firm to perform its physical asset reconciliation in several stages, with each stage referring to a line of stock or group of stock lines in a designated investment selected by a firm (for example, all the shares with an issuer whose name begins with the letter 'A' or all the stock lines held in connection with a particular business line).

(2) Where a firm uses the rolling stock method to perform a physical asset reconciliation, all the stages in that physical asset reconciliation must be completed in time to ensure the firm complies with CASS 6.6.22 R.

6.6.30 R (1) If a firm wishes to use the rolling stock method to perform a physical asset reconciliation it must first establish and document in writing its reasons for concluding that the way in which it will carry out its physical asset reconciliations is adequately designed to mitigate the risk of the firm's records being manipulated or falsified.

(2) A firm must retain any documents created under (1) for a period of at least five years after the date it ceases to use the rolling stock method to perform its physical asset reconciliation.

6.6.31 G The documents under CASS 6.6.30R (1) should, for example, cover the systems and controls the firm will have in place to mitigate the risk of 'teeming and lading' in respect of all the physical safe custody assets held by the firm for clients and across all the firm's business lines.
To meet the requirement to have adequate organisational arrangements under CASS 6.2.2 R, a firm should consider performing ‘spot checks’ as to whether title to an appropriate sample of physical safe custody assets that it holds is registered correctly under CASS 6.2.3 R (Registration and recording of legal title).

External custody reconciliations

The purpose of an external custody reconciliation is to ensure the completeness and accuracy of a firm’s internal records and accounts of safe custody assets held by the firm for clients against those of relevant third parties.

A firm must conduct, on a regular basis, reconciliations between its internal records and accounts of safe custody assets held by the firm for clients and those of any third parties by whom those safe custody assets are held.

[Note: article 2(1)(c) of the MiFID Delegated Directive]

In CASS 6.6.34 R, the third parties whose records and accounts a firm is required to reconcile its own internal records and accounts with must include:

(1) the third parties with which the firm has deposited clients' safe custody assets;

(2) where the firm has not deposited a client's safe custody asset with a third party:

   (a) the third parties responsible for the registration of legal title to that safe custody asset; or

   (b) a person acting as an operator for the purposes of any of the relevant overseas USRs if:

      (i) the safe custody asset is an uncertificated unit of a security governed by any of the relevant overseas USRs; and

      (ii) the firm has reasonable grounds to be satisfied that the records of that person take into account all instructions issued by that person which require an issuer to register on a register of securities a transfer of title to any uncertificated units.

Examples of the sorts of third parties referred to at CASS 6.6.35R (2)(a) include central securities depositaries, operators of collective investment schemes, and administrators of offshore funds.

CASS 6.6.37R does not apply to a firm following its failure.

CASS 6.6.46AR (Frequency of checks and reconciliations after failure) applies to a firm following its failure.
A firm must conduct external custody reconciliations:

(1) as regularly as necessary but allowing no more than one month to pass between each external custody reconciliation; and

(2) as soon as reasonably practicable after the date to which the external custody reconciliation relates.

CASS 6.6.44 R sets out the matters which a firm must consider when determining the frequency at which to undertake an external custody reconciliation.

Where a firm holds clients’ safe custody assets electronically with a central securities depositary which is able to provide adequate information to the firm on its holdings on a daily basis, it is best practice under CASS 6.6.37 R (1) for the firm to conduct an external custody reconciliation each business day in respect of those assets.

Where a firm deposits safe custody assets belonging to a client with a third party or where a third party is responsible for the registration of legal title to that asset, in complying with the requirements of CASS 6.6.34 R, the firm should seek to ensure that the third party provides the firm with adequate information (for example in the form of a statement) as at a date specified by the firm which details the description and amounts of all the safe custody assets credited to the relevant account(s) and that this information is provided in sufficient time to allow the firm to carry out its external custody reconciliations under CASS 6.6.37 R.

If a firm acting as trustee or depositary of an AIF that is an authorised AIF deposits safe custody assets belonging to a client with a third party, under article 89(1)(c) (Safekeeping duties with regard to assets held in custody) of the AIFMD level 2 regulation, the firm should seek to ensure that the third party provides the firm with adequate information (for example in the form of a statement) as at a date or dates specified by the firm which details the description and amounts of all the safe custody assets credited to the account(s) and that this information is provided in adequate time to allow the firm to carry out the periodic reconciliations required under article 89(1)(c) (Safekeeping duties with regard to assets held in custody) of the AIFMD level 2 regulation.

If a firm acting as trustee or depositary of a UK UCITS deposits safe custody assets belonging to a client with a third party, under article 13(1)(c) (Safekeeping duties with regard to assets held in custody) of the UCITS level 2 regulation, the firm should seek to ensure that:

(1) the third party provides the firm with adequate information (for example in the form of a statement):

(a) as at a date or dates specified by the firm; and

(b) which details the description and amounts of all the safe custody assets credited to the account(s); and
(2) such information is provided in adequate time to allow the firm to carry out the periodic reconciliations required under article 13(1)(c) of the UCITS level 2 regulation.

6.6.42 External custody reconciliations must be performed for each safe custody asset held by the firm for its clients, except for physical safe custody assets. A reconciliation of transactions involving safe custody assets, rather than of the safe custody assets themselves, will not satisfy the requirement under ■ CASS 6.6.34 R.

6.6.43 A firm acting as trustee or depositary of an AIF that is an authorised AIF should perform the reconciliation under article 89(1)(c) (Safekeeping duties with regard to assets held in custody) of the AIFMD level 2 regulation:

(1) as regularly as is necessary having regard to the frequency, number and value of transactions which the firm undertakes in respect of safe custody assets, but with no more than one month between each reconciliation; and

(2) as soon as reasonably practicable after the date to which the reconciliation relates;

to ensure the accuracy of its internal records and accounts against those of third parties by whom client’s safe custody assets are held.

Frequency of checks and reconciliations under this section

6.6.43A ■ CASS 6.6.44R to ■ CASS 6.6.46R do not apply to a firm following its failure.

6.6.43B ■ CASS 6.6.46AR (Frequency of checks and reconciliations after failure) applies to a firm following its failure in respect of the frequency at which the firm undertakes its internal custody record checks under ■ CASS 6.6.11R, physical asset reconciliations under ■ CASS 6.6.22R, and external custody reconciliations under ■ CASS 6.6.37R.

6.6.44 When determining the frequency at which it will undertake its internal custody record checks under ■ CASS 6.6.11 R, physical asset reconciliations under ■ CASS 6.6.22 R, and external custody reconciliations under ■ CASS 6.6.37 R, a firm must have regard to:

(1) the frequency, number and value of transactions which the firm undertakes in respect of clients’ safe custody assets; and

(2) the risks to which clients’ safe custody assets are exposed, such as the nature, volume and complexity of the firm’s business and where and with whom safe custody assets are held.

6.6.45 (1) A firm must make and retain records sufficient to show and explain any decision it has taken under ■ CASS 6.6.44 R when determining the frequency of its internal custody record checks, physical asset reconciliations and external custody reconciliations. Subject to (2), such records must be retained indefinitely.
(2) If any decision under [CASS 6.6.44 R] is superseded by a subsequent decision under that rule then the record of that earlier decision retained in accordance with (1) need only be retained for a further period of five years from the subsequent decision.

(1) Subject to (3), a firm must review the frequency at which it conducts internal custody record checks, physical asset reconciliations and external custody reconciliations at least annually to ensure that it continues to comply with [CASS 6.6.11 R], [CASS 6.6.22 R] and [CASS 6.6.37 R], respectively, and has given due consideration to the matters in [CASS 6.6.44 R].

(2) For each review a firm undertakes under (1), it must record the date and the actions it took in reviewing the frequency of its internal custody record checks, physical asset reconciliations and external custody reconciliations.

(3) A firm need not carry out a review under (1) in respect of its internal custody record checks, physical asset reconciliations and external custody reconciliations, if it already conducts the particular process in respect of all relevant safe custody assets each business day.

**Frequency of checks and reconciliations after failure**

(1) This rule applies to a firm following its failure.

(2) A firm must perform an internal custody record check and a physical asset reconciliation that relates to the time of its failure as soon as reasonably practicable after its failure.

(3) (a) A firm must perform an external custody reconciliation that relates to the time of its failure as soon as reasonably practicable after its failure.

(b) If any records and accounts of the relevant third parties under [CASS 6.6.35 R] relating to the time of the firm’s failure are unavailable, the firm must use the next available records and accounts to perform the external custody reconciliation under sub-paragraph (a).

(4) A firm must perform further internal custody record checks and physical asset reconciliations:

(a) as regularly as is necessary to ensure that the firm remains in compliance with [CASS 6.6.2 R], [CASS 6.6.3 R] and [CASS 6.6.4 R] (Records and accounts); and

(b) as soon as reasonably practicable after the date to which the internal custody record check or physical asset reconciliation relates.

(5) A firm must perform further external custody reconciliations on a regular basis:

(a) as regularly as is necessary; and

(b) as soon as reasonably practicable after the date to which the external custody reconciliation relates.
(6) A firm must determine the frequency at which it will undertake its internal custody record checks and physical asset reconciliations under paragraph (4), and its external custody reconciliations under paragraph (5) with regard to:

(a) the frequency, number and value of transactions which the firm undertakes in respect of clients’ safe custody assets;

(b) the risks to which clients’ safe custody assets are exposed, such as the nature, volume and complexity of the firm’s business, and where and with whom safe custody assets are held; and

(c) the need to comply with CASS 6.7.

6.6.46B (1) The reference point for the internal custody record check and physical asset reconciliation under CASS 6.6.46A(2) and the external custody reconciliation under 6.6.46A(3)(a) should be the precise point in time at which the firm’s failure occurred.

(2) The reference point for any further internal custody record checks and physical asset reconciliations under CASS 6.6.46A(4) and any further external custody reconciliations under CASS 6.6.46A(5) can be determined by the firm.

Independence of person performing checks and reconciliations

Whenever possible, a firm should ensure that checks and reconciliations are carried out by a person (for example an employee of the firm) who is independent of the production or maintenance of the records to be checked and/or reconciled.

Resolution of discrepancies

In this section, a discrepancy should not be considered to be resolved until it is fully investigated and corrected, and any associated shortfall is made good by way of the firm ensuring that:

(1) it is holding (under the custody rules) each of the safe custody assets that the firm ought to be holding for each of its clients; and

(2) its own records, and the records of any relevant other person (such as a third party with whom the firm deposited the safe custody assets) accurately correspond to the position under (1).

6.6.49 When a firm identifies a discrepancy as a result of carrying out an internal custody record check, physical asset reconciliation or external custody reconciliation, the firm must:

(1) promptly investigate the reason for the discrepancy and resolve it without undue delay; and

(2) take appropriate steps under CASS 6.6.54 R for the treatment of any shortfalls until that discrepancy is resolved.
When a firm identifies a discrepancy outside of its processes for an internal custody record check, physical asset reconciliation or external custody reconciliation, the firm must:

(1) take all reasonable steps both to investigate the reason for the discrepancy and to resolve it; and

(2) take appropriate steps under R6.6.54 for the treatment of shortfalls until that discrepancy is resolved.

Where the discrepancy identified under CASS 6.6.49 or CASS 6.6.50 has arisen as a result of a breach of the custody rules, the firm should ensure it takes sufficient steps to avoid a reoccurrence of that breach (see Principle 10 (Clients' assets), CASS 6.6.3 and, as applicable, SYSC 4.1.1R(1) and SYSC 6.1.1 R).

Items recorded or held within a suspense or error account fall within the scope of discrepancies in this section.

Items recorded in a firm's records and accounts that are no longer recorded by relevant third parties (such as 'liquidated stocks') also fall within the scope of discrepancies in this section.

Treatment of shortfalls

(1) This rule applies where a firm identifies a discrepancy as a result of, or that reveals, a shortfall, which the firm has not yet resolved.

(2) Subject to paragraphs (3) and (4), until the discrepancy is resolved a firm must do one of the following:

(a) appropriate a sufficient number of its own applicable assets to cover the value of the shortfall and hold them for the relevant clients under the custody rules in such a way that the applicable assets, or the proceeds of their liquidation, will be available for distribution for the benefit of the relevant clients in the event of the firm's failure and, in doing so:

(i) ensure that the applicable assets are clearly identifiable as separate from the firm's own property and are recorded by the firm in its client-specific safe custody asset record as being held for the relevant client;

(ii) keep a record of the actions the firm has taken under this rule which includes a description of the shortfall, identifies the relevant affected clients, and lists the applicable assets that the firm has appropriated to cover the shortfall; and

(iii) update the record made under (ii) whenever the discrepancy is resolved and the firm has re-appropriated the applicable assets; or

(b) (provided that doing so is consistent with the firm's permissions and would result in money being held for the relevant client) in respect of the shortfall under CASS 7.17.2 R (statutory trust) appropriate a sufficient amount of its own money to cover the
value of the *shortfall*, hold it for the relevant *client* as *client money* under the *client money rules* and, in doing so:

(i) ensure the *money* is segregated under CASS 7.13 (Segregation of client money) and recorded as being held for the relevant *client* under CASS 7.15 (Records, accounts and reconciliations);

(ii) keep a record of the actions the *firm* has taken under this *rule* which includes a description of the *shortfall*, identifies the relevant affected *clients*, and specifies the amount of *money* that the *firm* has appropriated to cover the *shortfall*; and

(iii) update the record made under (ii) whenever the discrepancy is resolved and the *firm* has re-appropriated the *money*; or

(c) appropriate a number of *applicable assets* in accordance with (a) and an amount of *money* in accordance with (b) which, in aggregate, are sufficient to cover the value of the *shortfall*.

(3) If the *firm*, where justified, concludes that another *person* is responsible for the discrepancy, regardless of any dispute with that other *person*, or that the discrepancy is due to a timing difference between the accounting systems of that other *person* and that of the *firm*, the *firm* must take all reasonable steps to resolve the situation without undue delay with the other *person*. Until the discrepancy is resolved the *firm* must consider whether it would be appropriate to notify the affected *client* of the situation, and may take steps under (2) for the treatment of *shortfalls* until that discrepancy is resolved.

(4) A *firm* that has *failed* is not required to take steps under paragraph (2) in relation to the *firm’s* own *applicable assets* or *money* in so far as the legal procedure for the *firm’s* *failure* prevents the *firm* from taking any such steps.

6.6.55 In considering whether it should notify affected *clients* under CASS 6.6.54R (3), a *firm* should have regard to its obligations under the *client’s* *best interests rule* to act honestly, fairly and professionally in accordance with the best interests of its *clients*, and to *Principle 7* (communications with clients).

6.6.56 (1) The value of a *shortfall* for the purposes of CASS 6.6.54 R may be determined by the previous day’s closing mark to market valuation, or if in relation to a particular *safe custody asset* none is available, the most recently available valuation.

(2) Where a *firm* is taking the measures under CASS 6.6.54R (2) in respect of a particular *shortfall* it should, as regularly as necessary, and having regard to *Principle 10*:

(a) review the value of the *shortfall* in line with (1); and

(b) where the *firm* has found that the value of the *shortfall* has changed, adjust either or both the number of own *applicable assets* or the amount of *money* it has appropriated to ensure that in aggregate the assets and monies set aside are sufficient to cover the changed value of the *shortfall*.
CASS 6 : Custody

Section 6.6 : Records, accounts and reconciliations

6.6.56A G

CASS 6.6.54R(4) recognises that a failed firm is required to investigate and resolve discrepancies, but the extent to which it is able to address shortfalls pending the resolution of discrepancies may be limited by insolvency law, for example.

Notification requirements

6.6.57 R

A firm must inform the FCA in writing without delay if:

(1) its internal records and accounts of the safe custody assets held by the firm for clients are materially out of date, or materially inaccurate or invalid, so that the firm is no longer able to comply with the requirements in CASS 6.6.2 R to CASS 6.6.4 R; or

(2) it is a firm acting as trustee or depositary of an AIF and has not complied with, or is materially unable to comply with, the requirements in CASS 6.6.2 R or in article 89(1)(b) or 89(1)(c) (Safekeeping duties with regard to assets held in custody) of the AIFMD level 2 regulation; or

(2A) it is a firm acting as trustee or depositary of a UK UCITS and has not complied with, or is materially unable to comply with, the requirements in:

(a) CASS 6.6.2R; or

(b) article 13(1)(b) or 13(1)(c) (Safekeeping duties with regard to assets held in custody) of the UCITS level 2 regulation; or

(3) it will be unable, or materially fails, to take the steps required under CASS 6.6.54 R for the treatment of shortfalls; or

(4) it will be unable, or materially fails, to conduct an internal custody record check in compliance with CASS 6.6.11 R to CASS 6.6.19 R; or

(5) it will be unable, or materially fails, to conduct a physical asset reconciliation in compliance with CASS 6.6.22 R to CASS 6.6.30 R; or

(6) it will be unable, or materially fails, to conduct an external custody reconciliation in compliance with CASS 6.6.34 R to CASS 6.6.37 R.

Annual audit of compliance with the custody rules

6.6.58 G

Firms are reminded that the auditor of the firm has to confirm in the report submitted to the FCA under SUP 3.10 (Duties of auditors: notification and report on client assets) that the firm has maintained systems adequate to enable it to comply with the custody rules.
6.7 Treatment of custody assets after a failure

Application

6.7.1 This section applies to a firm following its failure.

Disposal of safe custody assets

6.7.2 (1) Before a firm takes any steps to dispose of a safe custody asset it must:

(a) (subject to paragraph (2)) attempt to return it to the relevant client or transfer it to another person for safekeeping on behalf of the client in accordance with CASS 6.7.8R; and

(b) (subject to paragraph (3)) take reasonable steps to notify the client of the firm’s proposed course of action for disposing of the safe custody asset.

(2) A firm is not required to attempt to return or transfer a safe custody asset under paragraph (1)(a) where the client to whom the safe custody asset belongs has confirmed to the firm that it disclaims all its interests in the safe custody asset.

(3) A firm is not required to notify a client under paragraph (1)(b) where:

(a) the firm is able to return the safe custody asset to the relevant client or transfer it to another person on behalf of the client in accordance with CASS 6.7.8R; or

(b) the client to whom the safe custody asset belongs has confirmed to the firm that it disclaims all its interests in the safe custody asset.

6.7.3 (1) The disposal of a safe custody asset referred to under CASS 6.7.2R(1) includes cases where the firm is using the procedure under regulation 12B of the IBSA Regulations to set a ‘hard bar date’ by giving a ‘hard bar date notice’, or is using another similar procedure in accordance with the legal procedure for the firm’s failure.

(2) In any case, a firm should consider whether its obligations under law or any agreement permit it to dispose of a safe custody asset in the way in which it proposes to do so.

6.7.4 (1) Reasonable steps in CASS 6.7.2R(1)(b) include the following course of conduct:
(a) determining, as far as reasonably possible, the correct contact details for the relevant client;

(b) for a client for whom the firm has evidence that it was a professional client for the purposes of the custody rules at the time of the failure:

(i) writing to the client at its last known address either by post or by electronic mail:

(A) to inform it of the firm’s intention to dispose of the safe custody asset;

(B) to inform it of the consequences of the firm’s proposed course of action in relation to the client’s ability to assert a claim in respect of that safe custody asset; and

(C) to invite the client to submit a claim for that safe custody asset;

(ii) where the client has not responded within 28 days of the communication under sub-paragraph (i), attempting to communicate the information in (i) to the client on at least one further occasion by any means other than that used in sub-paragraph (i) including by post, electronic mail, telephone or media advertisement; and

(c) for any other client:

(i) the same steps as under sub-paragraphs (b)(i) and (b)(ii); and

(ii) where the client has not responded within 28 days of the second communication under sub-paragraph (b)(ii), attempting to communicate the information in sub-paragraph (b)(i) to the client on at least one further occasion by any means other than one in respect of which the firm has obtained positive confirmation that the client is not receiving such communications.

(2) Compliance with paragraph (1) may be relied on as tending to establish compliance with CASS 6.7.2R(1)(b).

(3) Contravention of paragraph (1) may be relied on as tending to establish contravention of CASS 6.7.2R(1)(b).

6.7.5 For the purposes of CASS 6.7.4E(1)(a), a firm may use any available means to determine the correct contact details for the relevant client, including:

(1) telephoning the client;

(2) searching internal and/or public records;

(3) media advertising;

(4) mortality screening; and

(5) using credit reference agencies or tracing agents.

6.7.6 If the firm undertook a tracing exercise for the purposes of CASS 6.2.10R(4) (Allocated but unclaimed safe custody assets) before its failure but had not
made the charity payment under that rule by the time of its failure then the findings of that exercise may be relied on for the purposes of CASS 6.7.4E(1)(a).

6.7.7

(1) A firm must make a record of any safe custody asset disposed of in accordance with CASS 6.7.2R at the time of the disposal.

(2) The record under paragraph (1) must state:

(a) the safe custody asset that was disposed of;
(b) the value of the consideration received for the safe custody asset disposed of;
(c) the name and contact details of the client to whom the safe custody asset was allocated, according to the firm’s records at the time of making the record under this rule; and
(d) either:

(i) the efforts applied by the firm to determine the client’s correct contact details under CASS 6.7.4E(1)(a); or

(ii) if being relied on under CASS 6.7.6R, the efforts applied by the firm to determine the client’s correct contact details for the purposes of CASS 6.2.10R(4) (Allocated but unclaimed safe custody assets).

(3) A firm must keep the record under paragraph (1) indefinitely.

**Transfers of safe custody assets**

6.7.8

(1) This rule applies where, instead of returning a safe custody asset to a client, a firm (Firm A) is able to transfer the safe custody asset to another person (Firm B) for safekeeping on behalf of the client.

(2) Firm A may only effect such a transfer if, in advance of the transfer, it has obtained a contractual undertaking from Firm B that:

(a) where regulation 10C(3) of the IBSA Regulations does not apply, Firm B will return the safe custody asset to the client at the client’s request; and

(b) Firm B will notify the client, within 14 days of the transfer of that client’s safe custody asset having commenced:

(i) of the applicable regulatory regime under which the safe custody asset will be held by Firm B;

(ii) either:

(A) of any relevant compensation scheme limits that may apply in respect of Firm B’s handling of the safe custody asset; or

(B) of the fact that Firm B does not participate in a relevant compensation scheme, if that is the case; and

(iii) where regulation 10C(3) of the IBSA Regulations does not apply, that the client has the option of having its safe custody asset returned to it by Firm B.
6.7.9 Where regulation 10C(3) of the IBSA Regulations does apply, Firm A should, in advance of the transfer under CASS 6.7.8R, obtain a contractual undertaking from Firm B that:

1. Firm B will comply with the client’s request for a ‘reverse transfer’ as defined in regulation 10C of the IBSA Regulations; and

2. Firm B will notify the client, within 14 days of the transfer of that client’s safe custody asset having commenced, that the client can demand a ‘reverse transfer’ as defined in regulation 10C of the IBSA Regulations.
Chapter 7

Client money rules
7.10 Application and purpose

7.10.1 This chapter applies to a firm that receives money from or holds money for, or on behalf of, a client in the course of, or in connection with, its:

(1) MiFID business; and/or
(2) designated investment business; and/or
(3) stocks and shares ISA business; and/or
(4) innovative finance ISA business; and/or

lifetime ISA business,

unless otherwise specified in this section.

7.10.2 A firm is reminded that when CASS 7.10.1 R applies it should treat client money in an appropriate manner so that, for example:

(1) if it holds client money in a client bank account that account is held in the firm's name in accordance with CASS 7.13.13 R;
(2) if it allows another person to hold client money this is effected under CASS 7.14;
(3) its internal client money reconciliation takes into account any client equity balance relating to its margined transaction requirements.

Opt-in to the client money rules

7.10.3 (1) A firm that receives or holds money to which this chapter applies in relation to:

(a) its MiFID business; or
(b) its MiFID business and its designated investment business which is not MiFID business;

and holds money in respect of which CASS 5 applies, may elect to comply with the provisions of this chapter in respect of all such money and if it does so, this chapter applies as if all such money were money that the firm receives and holds in the course of, or in connection with, its MiFID business.

(2) A firm that receives or holds money to which this chapter applies solely in relation to its designated investment business which is not MiFID business and receives or holds money in respect of which the insurance client money chapter applies, may elect to comply with the
provisions of this chapter in respect of all such money and if it does so, this chapter applies as if all such money were money that the firm receives and holds in the course of or in connection with its designated investment business.

(2A) (a) A firm may elect to comply with all the provisions of this chapter for money that it receives or holds in respect of an ISA that only contains a cash deposit ISA.

(b) Where a firm makes an election under (a), this chapter applies to it in the same way that it applies to a firm who receives and holds money in the course of or in connection with its MIFID business.

(3) A firm must make and retain a written record of any election it makes under this rule, including the date from which the election is to be effective. The firm must make the record on the date it makes the election and must keep it for a period of five years after ceasing to use it.

(4) This rule is subject to CASS 1.2.11 R.

7.10.3A Where a firm opts into this chapter under CASS 7.10.3 R (2A) it must notify clients for whom it holds the opted-in money that it is holding their money in accordance with the client money rules.

7.10.4 Firms are reminded that, under CASS 1.2.11 R, they must not keep money in respect of which the client money chapter applies in the same client bank account or client transaction account as money for which the insurance client money chapter applies.

7.10.5 The opt-in to the client money rules under CASS 7.10.3R does not apply in respect of money that a firm holds outside of either the:

(1) scope of the insurance client money chapter; or

(2) relevant cash deposit ISA wrapper;

as the case may be.

7.10.6 If a firm has opted to comply with this chapter under CASS 7.10.3R, the insurance client money chapter will have no application to the activities to which the election applies.

7.10.7 (1) A firm that is only subject to the insurance client money chapter may not opt to comply with this chapter under either or both CASS 7.10.3 R (1) and CASS 7.10.3 R (2).

(2) Under CASS 7.10.3 R (2A), a firm may opt to comply with this chapter regardless of whether it is otherwise subject to the client money rules.
Loan-based crowdfunding

(1) If both the conditions in (a) and (b) below are met in respect of a firm, or the firm reasonably expects that they will all be met in the future, then the firm has the option to elect to comply with this chapter for all of the money described in those conditions:

(a) the firm receives or holds money for one or more persons in the course of, or in connection with, the firm’s activity of operating an electronic system in relation to non-P2P agreements; and

(b) those persons are customers of the firm in their capacity as lenders under non-P2P agreements or prospective lenders under non-P2P agreements.

(2) A firm can only make the election under (1) by informing the FCA in writing of the election at least one month before the date on which it intends to start holding the money in accordance with the client money rules (“the effective date”).

(3) The communication in (2) must specify the effective date.

(4) The firm may change the effective date after it has made the communication in (2) provided that:

(a) it informs the FCA in writing before the new effective date; and

(b) the new effective date is not less than one month after the date of the communication in (2).

(1) When a firm makes an election under □ CASS 7.10.7AR it must write to any customer (“C”) with whom it has agreed to provide relevant electronic lending services in C’s capacity as a lender or prospective lender, informing C at least one month before it will start to hold the money in accordance with the client money rules:

(a) that all the money it holds in the course of, or in connection with, operating an electronic system in relation to non-P2P agreements for lenders and prospective lenders under non-P2P agreements will be treated in accordance with the client money rules; and

(b) of the date on which this will start.

(2) The firm must also write to any customer (“C”) with whom, following the firm’s election, it agrees to provide relevant electronic lending services in C’s capacity as a lender or prospective lender.

(a) The firm must make this communication in advance of it receiving any money from or on behalf of C.

(b) The communication must inform C that all the money the firm holds in the course of, or in connection with, operating an electronic system in relation to non-P2P agreements for lenders and prospective lenders under non-P2P agreements will be treated in accordance with the client money rules from the date specified under (1)(b) or, if that date has passed, that this will be the case from the time of the communication onwards.
Once an election made by a firm under Section 7.10.7AR becomes effective, and until it ceases to be effective:

1. The firm must treat all the money referred to under Section 7.10.7AR(1) in accordance with the election; and

2. For the purposes of (1), this chapter applies to the firm in the same way that it applies to a firm that receives and holds money in the course of or in connection with its designated investment business, except that:
   - (a) Section 7.10.10R will not apply to the money referred to under Section 7.10.7AR(1); and
   - (b) “client” for the purposes of CASS and rules and guidance related to CASS and their application to the firm includes customers of the firm in their capacity as lenders or prospective lenders under non-P2P agreements.

If a firm that has made an election under Section 7.10.7AR subsequently decides to cancel that election:

1. It can only do so by writing to the FCA, at least one month before the date the election ceases to be effective;

2. It must write to any customer with whom, as at the time of the cancellation, it has agreed to operate an electronic system in relation to non-P2P agreements in their capacity as a lender or prospective lender, informing them at least one month before the date the election ceases to be effective:
   - (a) of the extent to which it will cease to hold their money in accordance with the client money rules; and
   - (b) of the date from which those changes will take effect; and

3. It must write to any customer (“C”) with whom, following the firm’s decision to cancel the election but before the election ceases to be effective, it agrees to operate an electronic system in relation to non-P2P agreements in C’s capacity as a lender or prospective lender, in advance of the firm receiving any money from them or on their behalf, informing them:
   - (a) of the period during which it will continue to hold all the money of lenders and prospective lenders under non-P2P agreements in accordance with the client money rules;
   - (b) of the extent to which it will subsequently cease to hold their money in accordance with the client money rules; and
   - (c) of the date from which those changes will take effect.

A firm must make and retain a written record of any election it makes under Section 7.10.7AR including:

1. The date from which the election is to be effective; and
2. If it cancels the election, the date from which the election is to cease to be effective.
(2) The firm must:
(a) make the record on the date it makes the election;
(b) update the record if it decides to cancel the election or change the effective date; and
(c) keep the record for a period of five years after ceasing to use the election.

7.10.7F

(1) Where a firm has made an election under ■ CASS 7.10.7AR:
(a) it should treat money held for a client as client money both in the course of or in connection with:
   (i) operating an electronic system in relation to lending; and
   (ii) operating an electronic system in relation to non-P2P agreements;
(b) (a) is regardless of whether, at the time the firm is holding the money, the client could or could not be a lender under a P2P agreement; and
(c) under ■ SYSC 4.1.8ER(2) it will be not be able to accept, take, or receive the transfer of full ownership of money relating to non-P2P agreements.

(2) Where a firm has not made an election under ■ CASS 7.10.7AR, or where it has previously made an election but the election has ceased to be effective under ■ CASS 7.10.7DR, any money it holds:
(a) in the course of, or in connection with relevant electronic lending services, for a client who at that time will or could be a lender under a P2P agreement in respect of that money, should be treated as client money (for example because that client’s contractual investment criteria permit that money to be invested in a P2P agreement); and
(b) in the course of, or in connection with, operating an electronic system in relation to non-P2P agreements, for a customer who at that time could not be a lender under a P2P agreement in respect of that money, should not be treated as client money (for example because that customer’s contractual investment criteria only permit that money to be invested in a non-P2P agreement).

Money that is not client money: 'opt outs' for any business other than insurance distribution activity

7.10.8

■ CASS 7.10.9 G to ■ CASS 7.10.15 G do not apply to a firm in relation to money held in connection with its MiFID business to which this chapter applies or in relation to money for which the firm has made an election under ■ CASS 7.10.3 R(1) or ■ CASS 7.10.7AR.

Professional client opt-out

7.10.9

The 'opt out' provisions provide a firm with the option of allowing a professional client to choose whether their money is subject to the client money rules (unless the firm is conducting insurance distribution activity).
Subject to CASS 7.10.12 R, money is not client money when a firm (other than a sole trader) holds that money on behalf of, or receives it from, a professional client, other than in the course of insurance distribution activity, and the firm has obtained written acknowledgement from the professional client that:

1. money will not be subject to the protections conferred by the client money rules;
2. as a consequence, this money will not be segregated from the money of the firm in accordance with the client money rules and will be used by the firm in the course of its own business; and
3. the professional client will rank only as a general creditor of the firm.

'Opt-outs' for non-IDD business

For a firm whose business is not governed by the IDD, it is possible to 'opt out' on a one-way basis. However, in order to maintain a comparable regime to that applying to MiFID business, all 'MiFID type' business undertaken outside the scope of MiFID should comply with the client money rules or be 'opted out' on a two-way basis.

Money is not client money if a firm, in respect of designated investment business which is not an investment service or activity, an ancillary service, a listed activity or insurance distribution activity:

1. holds it on behalf of or receives it from a professional client who is not an authorised person; and
2. has sent a separate written notice to the professional client stating the matters set out in CASS 7.10.10 R (1) to CASS 7.10.10 R (3).

When a firm undertakes a range of business for a professional client and has separate agreements for each type of business undertaken, the firm may treat client money held on behalf of the client differently for different types of business; for example, a firm may, under CASS 7.10.10 R or CASS 7.10.12 R, elect to segregate client money in connection with securities transactions and not segregate (by complying with CASS 7.10.10 R or CASS 7.10.12 R) money in connection with contingent liability investments for the same client.

When a firm transfers client money to another person, the firm must not enter into an agreement under CASS 7.10.10 R or CASS 7.10.12 R with that other person in relation to that client money or represent to that other person that the money is not client money.

CASS 7.10.14 R prevents a firm, when passing client money to another person under CASS 7.14.2 R (Transfer of client money to a third party), from making use of the 'opt out' provisions under CASS 7.10.10 R or CASS 7.10.12 R.

■ Release 36  ● May 2024  www.handbook.fca.org.uk CASS 7/7
Credit institutions and approved banks

In relation to the application of the client money rules (and any other rule in so far as it relates to matters covered by the client money rules) to the firms referred to in (1) and (2), the following is not client money:

(1) any deposits within the meaning of the CRD held by a CRD credit institution; and

[Note: article 16(9) of MiFID and article 4(1) of the MiFID Delegated Directive]

(2) any money held by an approved bank that is not a CRD credit institution in an account with itself in relation to designated investment business carried on for its clients.

A firm referred to in CASS 7.10.16 R must comply, as relevant, with CASS 7.10.18 G to CASS 7.10.24 R.

The effect of CASS 7.10.16 R is that, unless notified otherwise in accordance with CASS 7.10.20 R or CASS 7.10.22 R, clients of CRD credit institutions or approved banks that are not CRD credit institutions should expect that where they pass money to such firms in connection with designated investment business these sums will not be held as client money.

A firm holding money in either of the ways described in CASS 7.10.16 R must, before providing designated investment business services to the client in respect of those sums, notify the client that:

(1) the money held for that client is held by the firm as banker and not as a trustee under the client money rules; and

(2) if the firm fails, the client money distribution and transfer rules will not apply to these sums and so the client will not be entitled to share in any distribution under the client money distribution and transfer rules.

A firm holding money in either of the ways described in CASS 7.10.16 R in respect of a client and providing the services to it referred to in CASS 7.10.19 R must:

(1) explain to its clients the circumstances, if any, under which it will cease to hold any money in respect of those services as banker and will hold the money as trustee in accordance with the client money rules; and

(2) set out the circumstances in (1), if any, in its terms of business so that they form part of its agreement with the client.

Where a firm receives money that would otherwise be held as client money but for CASS 7.10.16 R:

(1) it should be able to account to all of its clients for sums held for them at all times; and
(2) that money should, pursuant to Principle 10, be allocated to the relevant client promptly. This should be done no later than ten business days after the firm has received the money.

7.10.22 If a CRD credit institution or an approved bank that is not a CRD credit institution wishes to hold client money for a client (rather than hold the money in either of the ways described in CASS 7.10.16 R) it must, before providing designated investment business services to the client, disclose the following information to the client:

(1) that the money held for that client in the course of or in connection with the business described under (2) is being held by the firm as client money under the client money rules;

(2) a description of the relevant business carried on with the client in respect of which the client money rules apply to the firm; and

(3) that, if the firm fails, the client money distribution and transfer rules will apply to money held in relation to the business in question.

7.10.23 Firms carrying on MiFID business are reminded of their obligation to supply investor compensation scheme information to clients under COBS 6.1.16 R or COBS 6.1ZA.22 R (Compensation Information).

7.10.24 A CRD credit institution or an approved bank that is not a CRD credit institution must, in respect of any client money held in relation to its designated investment business that is not MiFID business, comply with the obligations referred to in COBS 6.1.16 R (Compensation information).

Affiliated companies: MiFID business

7.10.25 A firm that holds money on behalf of, or receives money from, an affiliated company in respect of MiFID business must treat the affiliated company as any other client of the firm for the purposes of this chapter.

Affiliated companies: non-MiFID business

7.10.26 A firm that holds money on behalf of, or receives money from, an affiliated company in respect of designated investment business which is not MiFID business must not treat the money as client money unless:

(1) the firm has been notified by the affiliated company that the money belongs to a client of the affiliated company; or

(2) the affiliated company is a client dealt with at arm's length; or

(3) the affiliated company is a manager of an occupational pension scheme or is an overseas company; and

(a) the money is given to the firm in order to carry on designated investment business for or on behalf of the clients of the affiliated company; and

(b) the firm has been notified by the affiliated company that the money is to be treated as client money.
Coins

The client money rules do not apply with respect to coins held on behalf of a client if the firm and the client have agreed that the money (or money of that type) is to be held by the firm for the intrinsic value of the metal which constitutes the coin.

Solicitors

(1) An authorised professional firm regulated by the Law Society (of England and Wales), the Law Society of Scotland or the Law Society of Northern Ireland that, with respect to its regulated activities, is subject to the following rules of its designated professional body, must comply with those rules and, where relevant paragraph (3), and if it does so, it will be deemed to comply with the client money rules.

(2) The relevant rules are:
(a) if the firm is regulated by the Law Society (of England and Wales), the SRA Accounts Rules 2011;
(b) if the firm is regulated by the Law Society of Scotland, the Law Society of Scotland Practice Rules 2011; and
(c) if the firm is regulated by the Law Society of Northern Ireland, the Solicitors’ Accounts Regulations 1998.

(3) If the firm in (1) is a MiFID investment firm that receives or holds money for, or on behalf of a client in the course of, or in connection with its MiFID business, it must also comply with the MiFID client money (minimum implementing) rules in relation to that business.

Long term insurers and friendly societies

This chapter does not apply to the permitted activities of a long-term insurer or a friendly society, unless it is a MiFID investment firm that receives money from or holds money for or on behalf of a client in the course of, or in connection with, its MiFID business.

Contracts of insurance

(1) Provided it complies with CASS 1.2.11 R, a firm that receives or holds client money in relation to contracts of insurance may elect to comply with the provisions of the insurance client money chapter, instead of this chapter, in respect of all such money.

(2) This rule is subject to CASS 1.2.11 R.

A firm must make and retain a written record of any election which it makes under CASS 7.10.30 R.

Life assurance business

(1) A firm which receives and holds client money in respect of life assurance business in the course of its designated investment business that is not MiFID business may:
(a) under CASS 7.10.3 R (2) elect to comply with the client money chapter in respect of such client money and in doing so avoid the need to comply with the insurance client money chapter which would otherwise apply to the firm in respect of client money received in the course of its insurance distribution activity; or

(b) under CASS 7.10.30 R, elect to comply with the insurance client money chapter in respect of such client money.

(2) These options are available to a firm irrespective of whether it also receives and holds client money in respect of other parts of its designated investment business. A firm may not however choose to comply with the insurance client money chapter in respect of client money which it receives and holds in the course of any part of its designated investment business which does not involve an insurance distribution activity.

Trustee firms

A trustee firm which holds money in relation to its designated investment business which is not MiFID business to which this chapter applies, must hold any such client money separate from its own money at all times.

Subject to CASS 7.10.35 R only the client money rules listed in the table below apply to a trustee firm in connection with money that the firm receives, or holds for or on behalf of a client in the course of or in connection with its designated investment business which is not MiFID business.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 7.10.1 R to CASS 7.10.6 G, and CASS 7.10.16 R to CASS 7.10.27 R</td>
<td>Application</td>
</tr>
<tr>
<td>CASS 7.10.33 R to CASS 7.10.40 G</td>
<td>Trustee firms</td>
</tr>
<tr>
<td>CASS 7.10.41 G</td>
<td>General purpose</td>
</tr>
<tr>
<td>CASS 7.13.3 R to CASS 7.13.4 G</td>
<td>Depositing client money</td>
</tr>
<tr>
<td>CASS 7.13.8 R to CASS 7.13.11 G</td>
<td>Selection, appointment and review of third parties</td>
</tr>
<tr>
<td>CASS 7.13.12 R to CASS 7.13.19 G</td>
<td>Client bank accounts</td>
</tr>
<tr>
<td>CASS 7.13.20 R to CASS 7.13.25 R</td>
<td>Diversification of client money</td>
</tr>
<tr>
<td>CASS 7.13.26 R to CASS 7.13.29 G</td>
<td>Qualifying money market funds</td>
</tr>
<tr>
<td>CASS 7.15.5 R (3), CASS 7.15.7 R and CASS 7.15.12 R to CASS 7.15.34 G</td>
<td>Reconciliation of client money balances</td>
</tr>
<tr>
<td>CASS 7.16</td>
<td>The standard methods of internal client money reconciliation</td>
</tr>
<tr>
<td>CASS 7.17.2 R to CASS 7.17.4 G</td>
<td>Requirement</td>
</tr>
</tbody>
</table>

(1) A trustee firm to which CASS 7.10.34 R applies may, in addition to the client money rules set out at CASS 7.10.34 R, also elect to comply with:

(a) all the client money rules in CASS 7.13 (Segregation of client money);

(b) CASS 7.14 (Client money held by a third party);
(c) all the client money rules in CASS 7.15 (Records, accounts and reconciliations); or

(d) CASS 7.18 (Acknowledgement letters).

(2) A trustee firm must make a written record of any election it makes under this rule, including the date from which the election is to be effective. The firm must make the record on the date it makes the election and must keep it for a period of five years after ceasing to use it.

(3) Where a trustee firm has made an election under (1) which it subsequently decides to cease to use, it must make a written record of this decision, including the date from which the decision is to be effective, and keep that record from the date the decision is made for a period of five years after the date it is to be effective.
A **trustee firm** may wish to make an election under [CASS 7.10.38](#) if, for example, it acts for a number of distinct trusts which it wishes, or is required, to keep operationally separate. If a **firm** makes such an election then it should:

1. establish and maintain adequate internal systems and controls to effectively segregate **client money** held for one trust from **client money** held for another trust; and

2. conduct **internal client money reconciliations** as set out in [CASS 7.16](#) and **external client money reconciliations** under [CASS 7.15.20](#) for each trust.

The provisions in [CASS 7.10.34](#) to [CASS 7.10.39](#) do not affect the general application of the **client money rules** regarding **money** that is held by a **firm** other than in its capacity as a **trustee firm**.

### General purpose

(1) **Principle 10** (Clients’ assets) requires a **firm** to arrange adequate protection for clients’ assets when the **firm** is responsible for them. An essential part of that protection is the proper accounting and treatment of **client money**. The **client money rules** provide requirements for firms that receive or hold **client money**, in whatever form.

(2) The **client money rules** also, where relevant, implement the provisions of **MiFID** which regulate the obligations of a **firm** when it holds **client money** in the course of its **MiFID business**.
7.11 Treatment of client money

Title transfer collateral arrangements

7.11.1 (1) [deleted]

(2) [deleted]

A firm must not enter into a TTCA in respect of money belonging to a retail client.

Where a firm entered into a TTCA in respect of money belonging to a retail client (or money which would belong to a retail client but for the arrangement) before 3 January 2018, the firm must terminate that TTCA.

[Note: article 16(10) of MiFID and article 5(5) of the MiFID Delegated Directive]

Money that is subject to a TTCA does not amount to client money, provided that the TTCA is not with a retail client.

[Note: recital 52 to MiFID]

7.11.2 [deleted]

7.11.3 (1) A firm must ensure that any TTCA is the subject of a written agreement made on a durable medium between the firm and the client.
(2) Regardless of the form of the written agreement in (1) (which may have additional commercial purposes), it must cover the client's agreement to:

(a) the terms for the arrangement relating to the transfer of the client's full ownership of money to the firm;

(b) any terms under which the ownership of money is to transfer from the firm back to the client; and

(c) (to the extent not covered by the terms under (b)), any terms for the termination of:

(i) the arrangement under (a); or

(ii) the overall agreement in (1).

(3) A firm must retain a copy of the agreement under (1) from the date the agreement is entered into and until five years after the agreement is terminated.

7.11.4  

7.11.4A  

Note: article 6 of the MiFID Delegated Directive]
its client to secure its obligation to repay that money to the client would not result in the money being client money. This can be compared to a situation in which a firm takes a charge or other security interest over money held in a client bank account, where that money would still be client money as there would be no absolute transfer of title to the firm. However, where a firm has received client money under a security interest and the security interest includes a "right to use arrangement", under which the client agrees to transfer all of its rights to money in that account to the firm upon the exercise of the right to use, the money may cease to be client money, but only once the right to use is exercised and the money is transferred out of the client bank account to the firm.

Firms are reminded of the client’s best interest rule, which requires a firm to act honestly, fairly and professionally in accordance with the best interests of its clients when structuring its business particularly in respect of the effect of that structure on firms’ obligations under the client money rules.

Termination of title transfer collateral arrangements

(1) If a client communicates to a firm that it wishes (whether pursuant to a contractual right or otherwise) to terminate a TTCA, and the client’s communication is not in writing, the firm must make a written record of the client’s communication, which also records the date the communication was received.

(2) A firm must keep a client’s written communication, or a written record of the client’s communication in (1), for five years starting from the date the communication was received by the firm.

(3) (a) If a firm agrees to the termination of a TTCA, it must notify the client of its agreement in writing. The notification must state when the termination is to take effect and whether or not the client’s money will be treated as client money by the firm thereafter.

(b) If a firm does not agree to terminate a TTCA, it must notify the client of its disagreement in writing.

(4) A firm must keep a written record of any notification it makes to a client under (3) for a period of five years, starting from the date the notification was made.

CASS 7.11.9 R (3)(a) refers only to a firm’s agreement to terminate an existing TTCA. Such agreement by a firm does not necessarily need to amount to the termination of its entire agreement with the client.

When a firm notifies a client under CASS 7.11.9 R (3)(a) of when the termination of a TTCA is to take effect, it should take into account:

(1) any relevant terms relating to such a termination that have been agreed with the client; and
(2) the period of time it reasonably requires to return the money to the client, or to update its records under CASS 7.15 (Records, accounts and reconciliations) and to segregate the money as client money under CASS 7.13 (Segregation of client money).

If a TTCA is terminated then, unless otherwise permitted under the client money rules and notified to the client under CASS 7.11.9R(3)(a), the firm must treat that money as client money from the start of the next business day following the date of termination as set out in the firm’s notification under CASS 7.11.9R(3)(a).

Where the firm’s notification under CASS 7.11.9R(3)(a) does not state when the termination of the arrangement will take effect, the firm must treat that money as client money from the start of the next business day following the date on which the firm’s notification is made.

A firm to which CASS 7.11.12 R applies should, for example, update its records under CASS 7.15 (Records, accounts and reconciliations) and segregate the money as client money under CASS 7.13 (Segregation of client money), from the relevant time at which the firm is required to treat the money as client money.

Delivery versus payment transaction exemption

(1) Subject to (2) and CASS 7.11.16 R and with the agreement of the relevant client, money need not be treated as client money in respect of a delivery versus payment transaction through a commercial settlement system if:

(a) in respect of a client’s purchase the firm intends for the money from the client to be due to it within one business day following the firm’s fulfilment of its delivery obligation to the client; or

(b) in respect of a client’s sale, the firm intends for the money in question to be due to the client within one business day following the client’s fulfilment of its delivery obligation to the firm.

(2) If the payment or delivery by the firm to the client has not occurred by the close of business on the third business day following the date on which the firm makes use of the exemption under (1), the firm must stop using that exemption for the transaction.

[deleted]

A firm cannot, in respect of a particular delivery versus payment transaction, make use of the exemption under CASS 7.11.14 R in either or both of the following circumstances:

(1) it is not a direct member or participant of the relevant commercial settlement system, nor is it sponsored by such a member or
participant, in accordance with the terms and conditions of that commercial settlement system;

(2) the transaction in question is being settled by another person on behalf of the firm through an account held at the relevant commercial settlement system by that other person.

Where a firm does not meet the requirements in CASS 7.11.14 R or CASS 7.11.16 R for the use of the exemption in CASS 7.11.14 R, the firm is subject to the client money rules in respect of any money it holds in connection with the delivery versus payment transaction in question.

(1) In line with CASS 7.11.14 R, where a firm receives money from the client in fulfilment of the client’s payment obligation in respect of a delivery versus payment transaction the firm is carrying out through a commercial settlement system in respect of a client’s purchase, and the firm has not fulfilled its delivery obligation to the client by close of business on the third business day following the date of the client’s fulfilment of its payment obligation to the firm, the firm must treat the client money in accordance with the client money rules until delivery by the firm to the client occurs.

(2) Upon settlement of a delivery versus payment transaction a firm is carrying out through a commercial settlement system (including when it is settled within the three business day period referred to in CASS 7.11.14 R (2)) then, in respect of:

(a) a client’s purchase, the custody rules apply to the relevant safe custody asset the firm receives upon settlement; and

(b) a client’s sale, the client money rules will apply to the relevant money received on settlement.

A firm will not be in breach of the requirement under CASS 7.13.6 R to receive client money directly into a client bank account if it:

(1) receives the money in question:

(a) in accordance with CASS 7.11.14 R (1)(a) but it is subsequently required under CASS 7.11.14 R (2) to hold that money in accordance with the client money rules; or

(b) in the circumstances referred to in CASS 7.11.18 G (2)(b); and

(2) pays the money in question into a client bank account promptly, and in any event by close of business on the business day following:

(a) the expiration of the relevant period referred to in CASS 7.11.14 R (2); or

(b) receipt of the money in the circumstances referred to in CASS 7.11.18 G (2)(b).

If a firm makes use of the exemption under CASS 7.11.14 R, it must obtain the client’s written agreement to the firm’s use of the exemption.
(2) In respect of each client, the record created in (1) must be retained during the time that the firm makes use, or intends to make use, of the exemption under CASS 7.11.21 R in respect of that client’s monies.

7.11.21 R

(1) Subject to (2)(a), money need not be treated as client money:

(a) in respect of a delivery versus payment transaction for the purpose of settling a transaction in relation to units in a regulated collective investment scheme in either of the following circumstances:

(i) the authorised fund manager receives the money from a client in relation to the authorised fund manager’s obligation to issue units, in an AUT or ACS, or to arrange for the issue of units in an ICVC, in accordance with COLL; or

(ii) the money is held in the course of redeeming units where the proceeds of that redemption are paid to a client within the time specified in COLL.

(2) (a) Where, in respect of money received in any of the circumstances set out in (1), the authorised fund manager has not, by close of business on the business day following the date of receipt of the money, paid this money to the depositary of an AUT or ACS, the ICVC or to the client as the case may be, the authorised fund manager must stop using the exemption under (1) for that transaction.

(b) Paragraph (2)(a) does not prevent a firm transferring client money segregated under (2)(a) into the firm's own account, provided this is done only for the purpose of making a payment on the same day from that account in accordance with CASS 7.11.34R(1) to CASS 7.11.34R(3) (Discharge of fiduciary duty).

7.11.22 R

An authorised fund manager will not be in breach of the requirement under CASS 7.13.6R to receive client money directly into a client bank account if it received the money in accordance with CASS 7.11.21 R (1) and is subsequently required under CASS 7.11.21 R (2) to hold that money in accordance with the client money rules.

7.11.23 G

Where proceeds of redemption paid to the client in accordance with CASS 7.11.21 R (1)(a)(ii) are paid by cheque, the cheque should be issued from the relevant client bank account.

7.11.24 R

(1) If a firm makes use of the exemption under CASS 7.11.21 R, it must obtain the client’s written agreement to the firm’s use of the exemption.

(2) In respect of each client, the record created in (1) must be retained for the duration of the time that the firm makes use of the exemption under CASS 7.11.21 R in respect of that client’s money.
Money due and payable to the firm

7.11.25  R  (1) Money is not client money when it becomes properly due and payable to the firm for its own account.

(2) For these purposes, if a firm makes a payment to, or on the instructions of, a client, from an account other than a client bank account, until that payment has cleared, no equivalent sum from a client bank account for reimbursement will become due and payable to the firm.

7.11.26  G  Money will not become properly due and payable to the firm merely through the firm holding that money for a specified period of time. If a firm wishes to cease to hold client money for a client it must comply with ■ CASS 7.11.34 R (Discharge of fiduciary duty) or, if the balance is allocated but unclaimed client money, ■ CASS 7.11.50 R (Allocated but unclaimed client money) or ■ CASS 7.11.57 R (De minimis amounts of unclaimed client money).

7.11.27  G  Money held as client money becomes due and payable to the firm or for the firm’s own account, for example, because the firm acted as principal in the contract or the firm, acting as agent, has itself paid for securities in advance of receiving the purchase money from its client. The circumstances in which it is due and payable will depend on the contractual arrangement between the firm and the client.

7.11.28  G  Firms are reminded that, notwithstanding that money may be due and payable to them, they have a continuing obligation to segregate client money in accordance with the client money rules. In particular, in accordance with ■ CASS 7.15.2 R, firms must ensure the accuracy of their records and accounts and are reminded of the requirement to carry out internal client money reconciliations either in accordance with the standard methods of internal client money reconciliation or the requirements for a non-standard method of internal client money reconciliation.

7.11.29  G  When a client’s obligation or liability, which is secured by that client’s asset, crystallises, and the firm realises the asset in accordance with an agreement entered into between the client and the firm, the part of the proceeds of the asset to cover such liability that is due and payable to the firm is not client money. However, any proceeds of sale in excess of the amount owed by the client to the firm should be paid over to the client immediately or be held in accordance with the client money rules.

Commission rebate

7.11.30  G  When a firm has entered into an arrangement under which commission is rebated to a client, those rebates need not be treated as client money until they become due and payable to the client in accordance with the terms of the contractual arrangements between the parties.

7.11.31  G  When commission rebate becomes due and payable to the client, the firm should:

(1) treat it as client money; or
(2) pay it out in accordance with the rule regarding the discharge of a firm’s fiduciary duty to the client (see □ CASS 7.11.34 R);

unless the firm and the client have entered into an arrangement under which the client has agreed to transfer full ownership of this money to the firm as collateral against payment of future professional fees (see □ CASS 7.11 (Title transfer collateral arrangements)).

Interest

7.11.32 R A firm must pay a retail client any interest earned on client money held for that client unless it has otherwise notified him in writing.

7.11.33 G (1) The firm may, under the terms of its agreement with the client, pay some, none, or all interest earned to the relevant client.

(2) Where interest is payable on client money by a firm to clients:

(a) such sums are client money and so, if not paid to, or to the order of the clients, are required to be segregated in accordance with □ CASS 7.13 (Segregation of client money);

(b) the interest should be paid to clients in accordance with the firm’s agreement with each client; and

(c) if the firm’s agreement with the client is silent as to when interest should be paid to the client the firm should follow □ CASS 7.13.36 R (Allocation of client money receipts);

irrespective of whether the client is a retail client or otherwise.

Discharge of fiduciary duty

7.11.33A R (1) □ CASS 7.11.34R(2)(c), □ CASS 7.11.34R(2)(d) and □ CASS 7.11.34R(10) do not apply to a firm following a primary pooling event.

(2) □ CASS 7.11.34R(2)(e) only applies to a firm following a primary pooling event.

7.11.34 R Money ceases to be client money (having regard to □ CASS 7.11.40 R where applicable) if:

(1) it is paid to the client, or a duly authorised representative of the client; or

(2) it is:

(a) paid to a third party on the instruction of, or with the specific consent of, the client unless it is transferred to a third party in the course of effecting a transaction under □ CASS 7.14.2 R (Transfer of client money to a third party); or

(b) paid to a third party pursuant to an obligation on the firm where:

(i) that obligation arises under an enactment; and
(ii) the obligation under that enactment is applicable to the firm as a result of the nature of the business being undertaken by the firm for its client; or

(c) transferred in accordance with ■ CASS 7.11.42 R; or

(d) transferred in accordance with ■ CASS 7.11.44 R; or

(e) transferred in accordance with ■ CASS 7A.2.4R(4); or

(3) subject to ■ CASS 7.11.39R, it is paid into a bank account of the client (not being an account which is also in the name of the firm); or

(4) it is due and payable to the firm in accordance with ■ CASS 7.11.25 R (Money due and payable to the firm); or

(5) it is paid to the firm as an excess in the client bank account (see ■ CASS 7.15.29 R (2) (Reconciliation discrepancies)); or

(6) it is paid by an authorised central counterparty to a clearing member other than the firm in connection with a porting arrangement in accordance with ■ CASS 7.11.35 R; or

(7) it is paid by an authorised central counterparty directly to the client in accordance with ■ CASS 7.11.36 R; or

(8) it is transferred by the firm to a clearing member in connection with a regulated clearing arrangement and the clearing member remits payment to another firm or to another clearing member in accordance with ■ CASS 7.11.37 R (1); or

(9) it is transferred by the firm to a clearing member in connection with a regulated clearing arrangement and the clearing member remits payment directly to the indirect clients of the firm in accordance with ■ CASS 7.11.37 R (2); or

(10) it is paid to charity under ■ CASS 7.11.50 R or ■ CASS 7.11.57 R.

7.11.35  

Client money which the firm places at an authorised central counterparty in connection with a regulated clearing arrangement ceases to be client money for that firm if, as part of the default management process of that authorised central counterparty in respect of a default by the firm, it is ported by the authorised central counterparty in accordance with article 48 of EMIR.

7.11.36  

Client money which the firm places at an authorised central counterparty in connection with a regulated clearing arrangement ceases to be client money if, as part of the default management process of that authorised central counterparty in respect of a default by the firm, it is paid directly to the client by the authorised central counterparty in accordance with the procedure described in article 48(7) of EMIR.

7.11.37  

Client money received or held by the firm and transferred to a clearing member who facilitates indirect clearing through a regulated clearing arrangement ceases to be client money for that firm and, if applicable, the clearing member, if the clearing member in accordance with the EMIR indirect clearing default management obligations or the MiFIR indirect clearing default management obligations (as applicable):
(1) remits payment to another firm or to another clearing member; or

(2) remits payment to the indirect clients of the firm.

7.11.38  Client money received or held by the firm for a sub-pool ceases to be client money for that firm to the extent that such client money is transferred by the firm to an authorised central counterparty or a clearing member as a result of porting.

7.11.39  A firm must not pay client money into a bank account of the client that has been opened without the consent of that client.

7.11.40  When a firm draws a cheque or other payable order to discharge its fiduciary duty to the client, it must continue to treat the sum concerned as client money until the cheque or order is presented and paid by the bank.

Transfer of business

7.11.40A  ■ CASS 7.11.41G to ■ CASS 7.11.47R do not apply to a firm following a primary pooling event.

7.11.40B  ■ CASS 7A.2.4R(4) (Pooling and distribution or transfer) applies to a firm in respect of transfers of client money to another person following a primary pooling event.

7.11.41  A firm may transfer client money to a third party as part of transferring all or part of its business if, in respect of each client with an interest in the client money that is sought to be transferred, it:

(1) obtains the consent or instruction of that client at the time of the transfer of business (see ■ CASS 7.11.34 R (2)(a); or

(2) complies with ■ CASS 7.11.42 R (see ■ CASS 7.11.34 R (2)(c); or

(3) complies with ■ CASS 7.11.44 R (see ■ CASS 7.11.34 R (2)(d)).

7.11.42  Subject to ■ CASS 7.11.44 R, money ceases to be client money for a firm if:

(1) it is transferred by the firm to another person as part of a transfer of business to that person where the client money relates to the business being transferred;

(2) it is transferred on terms which require the other person to return a client's transferred sums to the client as soon as practicable at the client's request;

(3) a written agreement between the firm and the relevant client provides that:

(a) the firm may transfer the client's client money to another person; and
Section 7.11 : Treatment of client money

(b) (i) the sums transferred will be held by the person to whom they are transferred in accordance with the client money rules for the clients; or

(ii) if not held in accordance with (i), the firm will exercise all due skill, care and diligence in assessing whether the person to whom the client money is transferred will apply adequate measures to protect these sums; and

(4) the firm complies with the requirements in (3)(b)(ii) (if applicable).

In considering how and whether to introduce the written agreement referred to in CASS 7.11.42 R (3), firms should have regard to any relevant obligations to clients, including requirements under the Unfair Terms Regulations.

Transfer of business: de minimis sums

Transfer of business: client notifications

For the avoidance of doubt, sums transferred under CASS 7.11.44 R do not, for the purposes of that rule, require the instruction or specific consent of each client at the time of the transfer or a written agreement as set out in CASS 7.11.42 R (3).

Transfer of business: client notifications

Where a firm transfers client money belonging to its clients under either or both of CASS 7.11.42 R and CASS 7.11.44 R it must ensure that those clients are notified no later than seven days after the transfer taking place:

(1) whether or not the sums will be held by the person to whom they have been transferred in accordance with the client money rules and if not how the sums being transferred will be held by that person;

(2) the extent to which the sums transferred will be protected under a compensation scheme; and
(3) that the client may opt to have the client's transferred sum returned to it as soon as practicable at the client's request.

7.11.47 The firm must notify the FCA of its intention to effect any transfer of client money under either or both of CASS 7.11.42 R and CASS 7.11.44 R at least seven days before it transfers the client money in question.

Allocated but unclaimed client money

7.11.47A CASS 7.11.48G to CASS 7.11.58G do not apply to a firm following a primary pooling event.

7.11.47B CASS 7A.2.6AR (Closing a client money pool) applies to a firm following a primary pooling event in respect of allocated but unclaimed client money.

7.11.48 The purpose of CASS 7.11.50 R is to set out the requirements firms must comply with in order to cease to treat as client money any unclaimed balance which is allocated to an individual client.

7.11.49 Before acting in accordance with CASS 7.11.50 R to CASS 7.11.58 G, a firm should consider whether its actions are permitted by law and consistent with the arrangements under which the client money is held. For the avoidance of doubt, these provisions relate to a firm's obligations as an authorised person and to the treatment of client money under the client money rules.

7.11.50 A firm may pay away to a registered charity of its choice a client money balance which is allocated to a client and if it does so the released balance will cease to be client money under CASS 7.11.34 R (10), provided:

(1) this is permitted by law and consistent with the arrangements under which the client money is held;

(2) the firm held the balance concerned for at least six years following the last movement on the client's account (disregarding any payment or receipt of interest, charges or similar items);

(3) it can demonstrate that it has taken reasonable steps to trace the client concerned and to return the balance; and

(4) the firm complies with CASS 7.11.54 R.

7.11.51 Where the client money balance held by a firm is, in aggregate, £100 or less for a client other than a retail client or, for a retail client, £25 or less, the firm may comply with CASS 7.11.57 R instead of CASS 7.11.50 R.

7.11.52 (1) Taking reasonable steps in CASS 7.11.50 R (3) includes following this course of conduct:

(a) determining, as far as reasonably possible, the correct contact details for the relevant client;
(b) writing to the client at the last known address either by post or by electronic mail to inform it of the firm's intention to no longer treat the client money balance as client money and to pay the sums concerned to charity if the firm does not receive instructions from the client within 28 days;

(c) where the client has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the client on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;

(d) subject to (e) and (f), where the client has not responded within 28 days following the most recent communication, writing again to the client at the last known address either by post or by electronic mail to inform them that:

(i) as the firm did not receive a claim for the relevant client money balance, it will in 28 days pay the balance to a registered charity; and

(ii) an undertaking will be provided by the firm or a member of its group to pay to the client concerned a sum equal to the balance paid away to charity in the event of the client seeking to claim the balance in future;

(e) if the firm has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the client is no longer at a particular address, the firm should not use that address for the purposes of (d);

(f) if, after carrying out the steps in (a), (b) and (c), the firm has obtained positive confirmation that none of the contact details it holds for the relevant client are accurate or, if utilised, the communication is unlikely to reach the client, the firm does not have to comply with (d); and

(g) waiting a further 28 days following the most recent communication under this rule before paying the balance to a registered charity.

(2) Compliance with (1) may be relied on as tending to establish compliance with CASS 7.11.50 R.

(3) Contravention of (1) may be relied on as tending to establish contravention of CASS 7.11.50 R.

7.11.53 G For the purpose of CASS 7.11.52 E (1)(a), a firm may use any available means to determine the correct contact details for the relevant client, including telephoning the client, searching internal records, media advertising, searching public records, mortality screening, using credit reference agencies or tracing agents.

7.11.54 R (1) Where a firm wishes to release a balance allocated to an individual client under CASS 7.11.50 R it must comply with either (a) or (b) and, in either case, (2):

(a) the firm must unconditionally undertake to pay to the client concerned a sum equal to the balance paid away to charity in the event of the client seeking to claim the balance in future;
or

(b) the firm must ensure that an unconditional undertaking in the terms set out in (a) is made by a member of its group and there is suitable information available for relevant clients to identify the member of the group granting the undertaking.

(2) The undertakings in this rule must be:

(a) authorised by the firm’s governing body where (1)(a) applies or by the governing body of the group member where (1)(b) applies;

(b) legally enforceable by any person who had a legally enforceable claim to the balance in question at the time it was released by the firm, or by an assign or successor in title to such claim; and

(c) retained by the firm, and where (1)(b) applies, by the group member indefinitely.

7.11.55 R

(1) If a firm pays away client money under CASS 7.11.50 R (4) it must make and retain, or where the firm already has such records, retain:

(a) records of all balances released from client bank accounts under CASS 7.11.50 R (including details of the amounts and the identity of the client to whom the money was allocated);

(b) all relevant documentation (including charity receipts); and

(c) details of the communications the firm had or attempted to make with the client concerned pursuant to CASS 7.11.50 R (3).

(2) The records in (1) must be retained indefinitely.

(3) If a member of the firm’s group has provided an undertaking under CASS 7.11.54 R (2) then the records in (1) must be readily accessible to that group member.

De minimis amounts of unclaimed client money

7.11.56 G

The purpose of CASS 7.11.57 R is to allow a firm to pay away to charity client money balances of (i) £25 or less for retail clients or (ii) £100 or less for other clients when those balances remain unclaimed. If a firm follows this process, the money will cease to be client money (see CASS 7.11.34 R (10)).

7.11.57 R

A firm may pay away to a registered charity of its choice a client money balance which is allocated to a client and if it does so the released balance will cease to be client money under CASS 7.11.34 R (10):

(1) the balance in question is (i) for a retail client, in aggregate, £25 or less, or (ii) for a professional client, in aggregate, £100 or less;

(2) the firm held the balance concerned for at least six years following the last movement on the client’s account (disregarding any payment or receipt of interest, charges or similar items);

(3) the firm has made at least one attempt to contact the client to return the balance using the most up-to-date contact details the firm has for
the client, and the client has not responded to such communication within 28 days of the communication having been made; and

(4) the firm makes and/or retains records of all balances released from client bank accounts in accordance with this rule. Such records must include the information in CASS 7.11.55 R (1)(a) and CASS 7.11.55 R (1)(b).

Costs associated with paying away allocated but unclaimed client money

Any costs associated with the firm ceasing to treat unclaimed client money balances as client money pursuant to CASS 7.11.50 R to CASS 7.11.57 R should be paid for from the firm's own funds, including:

(1) any costs associated with the firm carrying out the steps in CASS 7.11.50 R (3), CASS 7.11.51 G or CASS 7.11.57 R (3); and

(2) the cost of any insurance purchased by a firm or the relevant member of its group to cover any legally enforceable claim in respect of the client money paid away.
7.12 Organisational requirements: client money

Requirement to protect client money

7.12.1 A firm must, when holding client money, make adequate arrangements to safeguard the client's rights and prevent the use of client money for its own account.

[Note: article 16(9) of MiFID]

Requirement to have adequate organisational arrangements

7.12.2 A firm must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of client money, or of rights in connection with client money, as a result of misuse of client money, fraud, poor administration, inadequate record-keeping or negligence.

[Note: article 2(1)(f) of the MiFID Delegated Directive]

7.12.3 The risk of loss or diminution of rights in connection with client money can arise where a firm's organisational arrangements give rise to the possibility that client money held by the firm may be paid for the account of a client whose money is yet to be received by the firm. Consistent with the requirement to hold client money as trustee (see CASS 7.17.5 G), a firm should ensure its organisational arrangements are adequate to minimise such a risk. This may include, for example, allowing for sufficient periods of time for payments of client money to the firm to become available for use (including automated payments, credit card payments and payments by cheque), and setting up safeguards to ensure that payments out of client bank accounts do not take effect before the relevant amount of client money has become available for use by the firm.
7.13 Segregation of client money

Application and purpose

7.13.1 The segregation of client money from a firm's own money is an important safeguard for its protection.

7.13.2 Where a firm establishes one or more sub-pools, the provisions of CASS 7.13 (Segregation of client money) shall be read as applying separately to the firm's general pool and each sub-pool in line with CASS 7.19.3 R and CASS 7.19.12 R.

Depositing client money

7.13.3 A firm, on receiving any client money, must promptly place this money into one or more accounts opened with any of the following:

1. a central bank;
2. a CRD credit institution;
3. a bank authorised in a third country;
4. a qualifying money market fund.

[Note: article 4(1) of the MiFID Delegated Directive]

7.13.4 A firm should ensure that any money other than client money that is deposited in a client bank account is promptly paid out of that account unless such money is a minimum sum required to open the account, or to keep the account open.

Approaches for the segregation of client money

7.13.5 The two approaches that a firm can adopt in discharging its obligations under this section are:

1. the 'normal approach'; or
2. the 'alternative approach' (see CASS 7.13.54 G to CASS 7.13.69 G).
The normal approach

7.13.6  R  Unless otherwise permitted by any other rule in this chapter, a firm using the normal approach must ensure that all client money it receives is paid directly into a client bank account at an institution referred to in [CASS 7.13.3 R (1)] to [CASS 7.13.3 R (3)], rather than being first received into the firm's own account and then segregated.

7.13.7  G  Firms should ensure that clients and third parties make transfers and payments of any money which will be client money directly into the firm's client bank accounts.

Selection, appointment and review of third parties

7.13.8  R  (1) A firm that does not deposit client money with a central bank must exercise all due skill, care and diligence in the selection, appointment and periodic review of the CRD credit institution, bank or qualifying money market fund where the money is deposited and the arrangements for the holding of this money.

(2) The firm must consider the need for diversification as part of its due diligence under (1).

[Note: article 4(2) first sub-paragraph of the MiFID Delegated Directive]

7.13.9  G  Firms should ensure that their consideration of a CRD credit institution, bank or qualifying money market fund under [CASS 7.13.8 R] focuses on the specific legal entity in question and not simply that person's group as a whole.

7.13.10  R  When a firm makes the selection, appointment and conducts the periodic review of a CRD credit institution, a bank or a qualifying money market fund, it must take into account:

(1) the expertise and market reputation of the third party with a view to ensuring the protection of clients’ rights; and

(2) any legal or regulatory requirements or market practices related to the holding of client money that could adversely affect clients’ rights.

[Note: article 4(2) second sub-paragraph of the MiFID Delegated Directive]

7.13.11  G  In complying with [CASS 7.13.8 R] and [CASS 7.13.10 R], a firm should consider, as appropriate, together with any other relevant matters:

(1) the capital of the CRD credit institution or bank;

(2) the amount of client money placed, as a proportion of the CRD credit institution or bank’s capital and deposits, and, in the case of a qualifying money market fund, compared to any limit the fund may place on the volume of redemptions in any period;

(3) the extent to which client money that the firm deposits or holds with any CRD credit institution or bank incorporated outside the UK would
be protected under a deposit protection scheme in the relevant jurisdiction;

(4) the credit-worthiness of the CRD credit institution or bank; and

(5) to the extent that the information is available, the level of risk in the investment and loan activities undertaken by the CRD credit institution or bank and affiliated companies.

Client bank accounts

7.13.12 R

A firm must take the necessary steps to ensure that client money deposited, in accordance with CASS 7.13.3 R, in a central bank, a credit institution, a bank authorised in a third country or a qualifying money market fund is held in an account or accounts identified separately from any accounts used to hold money belonging to the firm.

[Note: article 2(1)(e) of the MiFID Delegated Directive]

7.13.13 R

(1) An account which the firm uses to deposit client money under CASS 7.13.3 R (1) to CASS 7.13.3 R (3) must be a client bank account.

(2) In respect of each client bank account used by a firm to satisfy its obligation under CASS 7.13.3R(1) to (3):

(a) the relevant bank's contractual counterparty must be the firm itself; and

(b) subject to paragraph (3A), the firm must be able to make withdrawals of client money promptly and, in any event, within one business day of a request for withdrawal.

Transitional provision CASS TP 1.1.10AR applies to (2).

(3) [deleted]

(3A) Where the requirement under sub-paragraph (2)(b) is not satisfied and provided that the client bank account is not included in a sub-pool, a firm may use a client bank account from which it will be unable to make a withdrawal of client money until the expiry of a period lasting:

(a) up to 30 days; or

(b) provided the firm complies with CASS 7.13.14AR, from 31 to 95 days.

(4) Paragraphs (2)(b) and (3A) do not apply in respect of client money received by a firm in its capacity as a trustee firm.

7.13.14 G

CASS 7.13.13 R (2)(b) and CASS 7.13.13R(3A) do not prevent a firm from depositing client money on terms under which a withdrawal may be made before the expiry of a fixed term or a notice period (whatever the duration), including where such withdrawal would incur a penalty charge to the firm.

7.13.14A R

A firm may only use one or more client bank accounts under CASS 7.13.13R(3A)(b) if:
(1) prior to using any such client bank accounts, it:
   (a) produces a written policy that sets out:
      (i) for each of its business lines, the maximum proportion of the
          client money held by the firm that the firm considers would
          be appropriate to hold in such client bank accounts having
          regard to the need to manage the risk of the firm being
          unable to access client money when required;
      (ii) the firm’s rationale for reaching its conclusion(s) under (i);
           and
      (iii) the measures that it will put into place to comply with sub-
           paragraph (2)(a) of this rule, having regard to
           CASS 7.13.14CE;
   (b) provides each of its clients with a written explanation of the risks
       that arise as a result of the longer notice period for withdrawals
       that:
          (i) is clear, fair and not misleading; and
       (ii) in respect of the medium of the explanation, satisfies
           whichever of COBS 6.1.13R (Medium of disclosure) or
           COBS 6.1ZA.19EU (Medium of disclosure) applies to the firm
           in respect of its obligations to provide information to the client;
       (2) while the firm uses any such client bank accounts, it:
           (a) takes appropriate measures to manage the risk of the firm being
               unable to access client money when required;
           (b) keeps its written policy under sub-paragraph (1)(a) under review,
               amending it where necessary; and
           (c) provides any of its clients to whom it has not previously provided
               the explanation under sub-paragraph (1)(b) with such a written
               explanation before it starts to hold or receive client money for
               them.

1. A firm must make and retain a written record of:
   (a) the written policy it produces under CASS 7.13.14AR(1)(a); and
   (b) each subsequent version of the written policy it produces as a
       result of CASS 7.13.14AR(2)(b).
2. The firm must make the record:
   (a) under sub-paragraph (1)(a) on the date it produces the written
       policy; and
   (b) under sub-paragraph (1)(b) on the date it produces the new
       version of the written policy.
3. The firm must keep each record under this rule for a period of five
   years after the earlier of:
   (a) the date on which the version of the policy to which the record
       relates was superseded; and
   (b) the date on which the firm ceased to use client bank accounts
       under CASS 7.13.13R(3A)(b).
7.13.14C  
(1) Appropriate measures under CASS 7.13.14AR(2)(a) include the firm considering the need to make, and making where appropriate, quarterly or more frequent adjustments to the amount of client money held in client bank accounts under CASS 7.13.13R(3A)(b), taking into consideration the following factors:
(a) historic and expected future client money receipts and payments;
(b) the firm's own analysis of its exposure to the risk of being unable to meet instructions from its clients in relation to client money that it holds, applying an appropriate set of time horizons and stress scenarios; and
(c) the content of the firm's written policy under CASS 7.13.14AR(1)(a)(i) and (ii).
(2) Compliance with (1) may be relied on as tending to establish compliance with CASS 7.13.14AR(2)(a).
(3) Contravention of (1) may be relied on as tending to establish contravention of CASS 7.13.14AR(2)(a).

7.13.14D  
(1) Under CASS 7.13.14AR(2)(b) a firm should consider whether amendments to its written policy under CASS 7.13.14AR(1)(a) are needed for any reason, including in light of the firm's analysis in the course of its measures under CASS 7.13.14AR(2)(a).
(2) Each time a firm amends its written policy under CASS 7.13.14AR(1)(a), it should also update the rationale for the amended policy under CASS 7.13.14AR(1)(a)(ii).
(3) The stress scenarios under CASS 7.13.14CE(1)(b) should include a variety of severe yet plausible institution-specific and market-wide liquidity shocks.

7.13.14E  
(1) If a fixed term or notice period for a withdrawal from a client bank account is scheduled to expire on a day on which a firm would expect to be unable to make the withdrawal, and the result is that the total period for which the withdrawal is prevented is longer than that permitted under CASS 7.13.13R(3A)(a) or (b), then the firm would be in breach of that rule.
(2) Such a situation could arise because the fixed term or notice period expires on a day which is not a business day for the relevant bank.
(3) Firms should therefore schedule their withdrawals from client bank accounts under CASS 7.13.13R(3A)(a) and (b) to avoid such breaches.

7.13.14F  
Firms that hold client money using a client bank account under CASS 7.13.13R(3A)(b) and to which SUP 16.14 (Client money and asset return) applies may need to fill in their CMARs in the way set out at SUP 16.14.7R (Reporting of ‘unbreakable’ client money deposits).
7.13.15  ■ CASS 7.13.13 R does not prevent a firm from depositing client money in overnight money market deposits which are clearly identified as being client money (for example, in the client bank account acknowledgment letter).

7.13.16  ■ Firms are reminded of their obligations under ■ CASS 7.18 (Acknowledgment letters) for client bank accounts. Firms should also ensure that client bank accounts meet the requirements in the relevant Glossary definitions, including regarding the titles given to the accounts.

7.13.17  ■ A firm may open one or more client bank accounts in the form of a general client bank account, a designated client bank account or a designated client fund account. The requirements of ■ CASS 7.13.13 R (2) and ■ CASS 7.13.13 R (3) apply for each type of client bank account.

7.13.18  ■ A designated client bank account may be used for a client only where that client has consented to the use of that account. If a firm deposits client money into a designated client bank account then, in the event of a secondary pooling event in respect of the relevant bank, the account will not be pooled with any general client bank account or designated client fund account.

7.13.19  ■ A designated client fund account may be used for a client only where that client has consented to the use of that account and all other designated client fund accounts which may be pooled with it. For example, a client who consents to the use of bank A and bank B should have his money held in a different designated client fund account at bank B from a client who has consented to the use of banks B and C. If a firm deposits client money into a designated client fund account then, in the event of a secondary pooling event in respect of the relevant bank, the account will not be pooled with any general client bank account or designated client bank account.

Diversification of client money

7.13.20-A  ■ (1) In ■ CASS 7.13.20 R to ■ CASS 7.13.25 R client money means money deposited under ■ CASS 7.13.3 R and therefore includes money deposited under ■ CASS 7.13.3 R:

(a) in an account opened with a qualifying money market fund; or

(b) invested in units or shares of a qualifying money market fund.

(2) But client money held under ■ CASS 7.14.2 R does not fall within the scope of the diversification provisions at ■ CASS 7.13.20 R to ■ CASS 7.13.25 R.

7.13.20  ■ Notwithstanding the requirement at ■ CASS 7.13.22 R a firm must limit the funds that it deposits or holds with a relevant group entity or combination of such entities so that the value of those funds do not at any point in time exceed 20 per cent of the total of all the client money held by the firm under ■ CASS 7.13.3 R.

[Note: article 4(3) first sub-paragraph of the MiFID Delegated Directive]
For the purpose of CASS 7.13.20 R an entity is a relevant group entity if it is:

1. (a) a CRD credit institution; or 
   a bank authorised in a third country; or 
   a qualifying money market fund; or 
   the entity operating or managing the qualifying money market fund; and 

2. a member of the same group as that firm.

[Note: article 4(3) first sub-paragraph of the MiFID Delegated Directive]

1. A firm need not comply with CASS 7.13.20 R if, following an assessment, it is able to demonstrate that the requirement under that rule is not proportionate, in view of:
   (a) the small balance of client money that it holds; 
   (b) the nature, scale and complexity of its business; and 
   (a) the safety offered by the relevant third parties referred to under CASS 7.13.20R.

2. A firm must review any assessment it makes under (1) periodically.

3. A firm must notify its assessment under (1) and its reviewed assessments under (2) to the FCA in accordance with CASS 7.13.21 CR.

[Note: article 4(3) second sub-paragraph of the MiFID Delegated Directive]

1. In relation to the requirement to take account of a firm’s “small balance” of client money at CASS 7.13.21 AR(1)(a):
   (a) the FCA expects a firm that would not qualify to be a CASS small firm under the rules in CASS 1A.2, ignoring any safe custody assets that it holds, to have difficulty in justifying using the approach in CASS 7.13.21 AR(1); 
   (b) a firm should calculate its client money balance for these purposes in the same way required under CASS 1A.2.3 R, and base its assessment under CASS 7.13.21 AR(1)(a) on either: 
      (i) the highest total amount of client money that it held during the year ending on the date of the assessment; or 
      (ii) if it did not hold client money in the previous calendar year, the highest total amount of client money that the firm projects it will hold during the year starting on the date of the assessment; 
   (c) this means that it may be possible for a CASS medium firm or a CASS large firm to justify using the approach in CASS 7.13.21 AR(1) on the basis of small client money balances; and 
   (d) in any case, a firm seeking to take that approach should also consider the points at CASS 7.13.21 AR(1)(b) and (c) as part of its assessment.
(2) In relation to the requirement under CASS 7.13.21AR(2) to review the assessment under CASS 7.13.21AR(1):

(a) a firm should undertake a review and, where appropriate, consider whether to cease to use the approach in CASS 7.13.21AR(1) when it becomes aware of a change in the circumstances that might have led the firm to a different conclusion on its previous assessment; and

(b) in any case a firm should undertake a review at least one year after its previous assessment until it ceases to use the approach in CASS 7.13.21AR(1).

(3) A firm may, subject to paragraph (2)(a), wish to perform the assessment and any periodic reviews under CASS 7.13.21AR when the obligations under CASS 1A.2.9R arise.

(4) Firms are reminded that, independent of CASS 7.13.21AR, each firm is required by CASS 1A.2.2R to determine once every year whether it is a CASS large firm, CASS medium firm or CASS small firm.

Where a firm decides following an assessment under CASS 7.13.21AR(1) that it intends to use the approach under that rule, the firm must give the FCA notice of this upon reaching that decision and before it starts to use that approach.

Where, following a review under CASS 7.13.21AR(2) a firm decides that it will either cease to use the approach under CASS 7.13.21AR(1) or continue to use it, it must give the FCA notice of this upon reaching that decision.

Subject to the requirement at CASS 7.13.20 R, and in accordance with Principle 10 and CASS 7.12.1 R, a firm must:

(1) periodically review whether it is appropriate to diversify (or further diversify) the third parties with which it deposits some or all of the client money that the firm holds; and

(2) whenever it concludes that it is appropriate to do so, it must make adjustments accordingly to the third parties it uses and to the amounts of client money deposited with them.

[Note: article 4(2) first sub-paragraph of the MiFID Delegated Directive]

In complying with the requirement in CASS 7.13.22 R to periodically review whether diversification (or further diversification) is appropriate, a firm should have regard to:

(1) whether it would be appropriate to deposit client money in client bank accounts opened at a number of different third parties;

(2) whether it would be appropriate to limit the amount of client money the firm holds with third parties that are in the same group as each other;
(3) whether risks arising from the firm’s business models create any need for diversification (or further diversification);

(4) the market conditions at the time of the assessment; and

(5) the outcome of any due diligence carried out in accordance with CASS 7.13.8 R and CASS 7.13.10 R.

7.13.24 The rules in SUP 16.14 provide that CASS large firms and CASS medium firms must report to the FCA in relation to the identity of the entities with which they deposit client money and the amounts of client money deposited with those entities. The FCA will use that information to monitor compliance with the diversification rule in CASS 7.13.20 R.

7.13.25 (1) A firm must make a record of the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a bank or a qualifying money market fund under CASS 7.13.8 R. The firm must make the record on the date it makes the selection or appointment and must keep it from that date until five years after the firm ceases to use that particular person for the purposes of depositing client money under CASS 7.13.3 R.

(2) A firm must make a record of each periodic review of its selection and appointment of a bank or a qualifying money market fund that it conducts under CASS 7.13.8 R, its considerations and conclusions. The firm must make the record on the date it completes the review and must keep it from that date until five years after the firm ceases to use that particular person for the purposes of depositing client money under CASS 7.13.3 R.

(3) A firm must make a record of each periodic review that it conducts under CASS 7.13.22 R, its considerations and conclusions. The firm must make the record on the date it completes out the review and must keep it for five years from that date.

Qualifying money market funds

7.13.26 Where a firm deposits client money with a qualifying money market fund, the firm’s holding of those units or shares in that fund will be subject to any applicable requirements of the custody rules.

[Note: recital 4 to the MiFID Delegated Directive]

7.13.27 A firm that places client money in a qualifying money market fund should ensure that it has the permissions required to invest in and hold units in that fund and must comply with the rules that are relevant for those activities.

7.13.28 (1) A firm must inform a client that money placed with a qualifying money market fund will not be held in accordance with the requirements for holding client money.
(2) A firm must ensure that, having provided the information to the client under (1), the client gives its explicit consent to the placement of their money in a qualifying money market fund.

[Note: article 4(2) third sub-paragraph to the MiFID Delegated Directive]

7.13.29 [deleted]

7.13.29A A firm may comply with CASS 7.13.28 R(1) by informing the client that the units or shares in the qualifying money market fund will be held as safe custody assets.

Segregation in different currency

7.13.30 A firm may segregate client money in a different currency from that in which it was received or in which the firm is liable to the relevant client. If it does so the firm must ensure that the amount held is adjusted each day to an amount at least equal to the original currency amount (or the currency in which the firm has its liability to its clients, if different), translated at the previous day's closing spot exchange rate.

Mixed remittance

7.13.31 Except in the circumstances described in CASS 7.13.72 R (1)(a), where a firm using the normal approach receives a mixed remittance it should:

(1) in accordance with CASS 7.13.6 R, take necessary steps to ensure the mixed remittance is paid directly into a client bank account; and

(2) promptly and, in any event no later than one business day after the payment of the mixed remittance into the client bank account has cleared, pay the money that is not client money out of the client bank account.

Physical receipts of client money

7.13.32 Where a firm receives client money in the form of cash, a cheque or other payable order, it must:

(1) pay the money in accordance with CASS 7.13.6 R, promptly, and no later than on the business day after it receives the money into a client bank account, unless either:

(a) the money is received by a business line for which the firm uses the alternative approach, in which case the money must be paid into the firm's own bank account promptly, and no later than on the business day after it receives the money; or

(b) the firm is unable to meet the requirement in (1) because of restrictions under the regulatory system or law regarding the receipt and processing of money, in which case the money must be paid in accordance with CASS 7.13.6 R as soon as possible;

(2) if the firm holds the money in the meantime before paying it in accordance with CASS 7.13.6 R (or in the case of (1)(a), into its own
Where a firm receives client money in the form of a cheque that is dated with a future date, unless the firm returns the cheque it must:

(1) pay the money in accordance with CASS 7.13.6 R, promptly, and no later than the date on the cheque if the date is a business day or the next business day after the date on the cheque;

(2) in the meantime, hold it in a secure location in accordance with Principle 10; and

(3) record the receipt of the money in the firm's books and records in accordance with CASS 7.15 (Records, accounts and reconciliations).

Appointed representatives, tied agents, field representatives and other agents

A firm must ensure that client money received by its appointed representatives, tied agents, field representatives or other agents is:

(1) received directly into a client bank account of the firm, where this would have been required if such client money had been received by the firm otherwise than through its appointed representatives, tied agents, field representatives or other agents (see CASS 7.13.6 R and CASS 7.13.7 G); or

(2) if it is received in the form of a cheque or other payable order:

(a) paid into a client bank account of the firm promptly and, in any event, no later than the next business day after receipt; or

(b) forwarded to the firm or, in the case of a field representative, forwarded to a specified business address of the firm, to ensure that the money arrives at the specified business address promptly and, in any event, no later than the close of the third business day.

Under CASS 7.13.34 R (2)(b), client money received on business day one should be forwarded to the firm or specified business address of the firm promptly and, in any event, no later than the next business day after receipt (business day two) in order for it to reach that firm or specified business address by the close of the third business day. Procedures requiring the client money in the form of a cheque to be sent to the firm or the specified business address of the firm by first class post and, in any event, no later than the next business day after receipt, would fulfil CASS 7.13.34 R (2)(b).

Allocation of client money receipts

(1) A firm must allocate any client money it receives to an individual client promptly and, in any case, no later than ten business days following the receipt (or where subsequent to the receipt of money it
Section 7.13: Segregation of client money

7.13.37 R  If a firm receives money (either in a client bank account or an account of its own) which it is unable to immediately identify as client money or its own money, it must:

(1) take all necessary steps to identify the money as either client money or its own money;

(2) if it considers it reasonably prudent to do so, given the risk that client money may not be adequately protected if it is not treated as such, treat the entire balance of money as client money and record the money in its books and records as "unidentified client money" while it performs the necessary steps under (1).

7.13.38 G  If a firm is unable to identify money that it has received as either client money or its own money under CASS 7.13.37 R, it should consider whether it would be appropriate to return the money to the person who sent it or to the source from where it was received (for example, the banking institution).

Money due to a client from a firm

7.13.39 R  Pursuant to the client money segregation requirements, a firm that is operating the normal approach and is liable to pay money to a client must promptly, and in any event no later than one business day after the money is due and payable, pay the money:

(1) to, or to the order of, the client; or

(2) into a client bank account.

7.13.40 G  Where the firm has payment instructions from the client the firm should pay the money to the order of the client, rather than into a client bank account.

Prudent segregation

7.13.41 R  (1) Subject to paragraph (2), CASS 7.13.41R to CASS 7.13.49R do not apply to a firm following a primary pooling event.
(2) If, at the time of a primary pooling event, a firm has retained money in a client bank account for the purposes of CASS 7.13.41 R, that money remains client money for the purposes of the client money rules and the client money distribution and transfer rules.

7.13.41 R If it is prudent to do so to prevent a shortfall in client money on the occurrence of a primary pooling event, a firm may pay money of its own into a client bank account and subsequently retain that money in the client bank account (prudent segregation). Money that the firm retains in a client bank account under this rule is client money for the purposes of the client money rules and the client money distribution and transfer rules.

7.13.42 G A firm must make and retain an up-to-date record of all payments made under CASS 7.13.41 R. (See further CASS 7.13.50 R to CASS 7.13.53 R: the prudent segregation record.)

7.13.43 R If a firm intends to pay its own money into a client bank account under CASS 7.13.41 R it must establish a written policy that is approved by its governing body (and retain such policy for a period of at least five years after the date it ceases to retain such money in a client bank account under CASS 7.13.41 R) detailing:

1. the specific anticipated risks in relation to which it would be prudent for the firm to make such payments into a client bank account;

2. why the firm considers that the use of such a payment is a reasonable means of protecting client money against each of the risks set out in the policy; and

3. the method that the firm will use to calculate the amount required to address each risk set out in the policy.

7.13.44 R The firm may amend its written policy to reflect changes in the specific anticipated risks in relation to which it would be prudent for the firm to make payments into a client bank account under CASS 7.13.41 R.

7.13.45 R The firm’s written policy must not conflict with the client money rules or the client money distribution and transfer rules. If there is a conflict, the client money rules and the client money distribution and transfer rules will prevail.

7.13.46 G In the event the firm faces a risk not contemplated under its current policy it will not be prevented from prudently segregating money as client money in accordance with these rules but the policy must be created or amended, as applicable, as soon as reasonably practicable.

7.13.47 G Examples of the types of risks that a firm may wish to provide protection for under CASS 7.13.41 R include systems failures and business that is conducted on non-business days where the firm would be unable to pay any anticipated shortfall into its client bank accounts.
To the extent that the firm no longer considers it prudent to retain money in its client bank account pursuant to CASS 7.13.41 R, in order to ensure that client money is protected, the firm may cease to treat that money as client money.

Any money that the firm ceases to treat as client money pursuant to CASS 7.13.48 R must be withdrawn from its client bank account as an excess under CASS 7.15.29 R as part of its next reconciliation.

Prudent segregation record

(1) Subject to paragraph (2), CASS 7.13.50 R to CASS 7.13.52 G do not apply to a firm following a primary pooling event.

(2) Where a firm holds a prudent segregation record under CASS 7.13.53 R following a primary pooling event, the prudent segregation record must continue to satisfy the requirements set out in CASS 7.13.51 R.

A firm must create and keep up-to-date records so that the amount of money paid into client bank accounts and retained as client money pursuant to CASS 7.13.41 R or withdrawn pursuant to CASS 7.13.49 R, and the reasons for such payment, retention and withdrawal can be easily ascertained (the prudent segregation record).

The prudent segregation record must record:

(1) the outcome of the firm’s calculation of its prudent segregation;

(2) the amounts paid into or withdrawn from a client bank account pursuant to CASS 7.13.41 R or CASS 7.13.49 R;

(3) why each payment or withdrawal is made;

(4) in respect of the firm’s written policy required by CASS 7.13.43 R the firm must record, as applicable, either:

(a) that the payment or withdrawal is made in accordance with that policy; or

(b) that the policy will be created or amended to include the reasons for this payment or withdrawal;

(5) that the money was paid by the firm in accordance with CASS 7.13.41 R or withdrawn by the firm in accordance with CASS 7.13.49 R; and

(6) the up-to-date total amount of client money held pursuant to CASS 7.13.41 R.

Firms are reminded that payments and records made in accordance with CASS 7.13.51 R should not be used as a substitute for a firm keeping accurate and timely records in accordance with CASS 7.15 (Records, accounts and...
The prudent segregation record must be retained for five years after the firm ceases to retain money as client money pursuant to CASS 7.13.41 R.

The alternative approach to client money segregation

Subject to paragraphs (2) and (3), CASS 7.13.59 R, CASS 7.13.62 R(3), CASS 7.13.62 R(4) and CASS 7.13.63 R to CASS 7.13.67 R do not apply to a firm following its failure.

If, at the time of a primary pooling event, a firm has retained money in a client bank account for the purposes of alternative approach mandatory prudent segregation under CASS 7.13.65 R, that money remains client money for the purposes of the client money rules and the client money distribution and transfer rules.

Where a firm holds an alternative approach mandatory prudent segregation record under CASS 7.13.68 R following a primary pooling event, the alternative approach mandatory prudent segregation record must continue to satisfy the requirements set out in CASS 7.13.67 R.

In certain circumstances, use of the normal approach for a particular business line of a firm could lead to significant operational risks to client money protection. These may include a business line under which clients’ transactions are complex, numerous, closely related to the firm’s proprietary business and/or involve a number of currencies and time zones. In such circumstances, subject to meeting the relevant criteria and fulfilling the relevant notification and audit requirements, a firm may use the alternative approach to segregating client money for that business line.

Under the alternative approach, client money is received into and paid out of a firm’s own bank account. A firm that adopts the alternative approach to segregating client money should (in line with CASS 7.15.16 R (2)) carry out an internal client money reconciliation on each business day (‘T0’) and calculate how much money it either needs to withdraw from, or place in from its own bank account or its client bank account as a result of any discrepancy arising between its client money requirement and its client money resource as at the close of business on the previous business day (‘T-1’).

The alternative approach mandatory prudent segregation required under CASS 7.13.65 R is designed to address the risks that:

(a) client money in a firm’s own bank account may not be available to be pooled for distribution to clients on the occurrence of a primary pooling event; and

(b) at the time of a primary pooling event the firm may not have segregated in its client bank account a sufficient amount of client money to meet its client money requirement.
A firm that wishes to adopt the alternative approach for a particular business line must first establish, and document in writing, its reasons for concluding, that:

1. Adopting the normal approach would lead to greater operational risks to client money protection compared to the alternative approach;

2. Adopting the alternative approach (including complying with the requirements for alternative approach mandatory prudent segregation under CASS 7.13.65 R), would not result in undue operational risk to client money protection; and

3. The firm has systems and controls that are adequate to enable it to operate the alternative approach effectively and in compliance with Principle 10 (Clients' assets).

A firm must retain any documents created under CASS 7.13.55 R in relation to a particular business line for a period of at least five years after the date it ceases to use the alternative approach in connection with that business line.

At least three months before adopting the alternative approach for a particular business line, a firm must:

1. Inform the FCA in writing that it intends to adopt the alternative approach for that particular business line; and

2. If requested by the FCA, make any documents it created under CASS 7.13.55 R available to the FCA for inspection.

In addition to the requirement under CASS 7.13.57 R, before adopting the alternative approach, a firm must send a written report to the FCA prepared by an independent auditor of the firm in line with a reasonable assurance engagement, stating the matters set out in (2).

The written report in (1) must state whether, in the auditor's opinion:

(a) The firm's systems and controls are suitably designed to enable it to comply with CASS 7.13.62 R to CASS 7.13.65 R; and

(b) The firm's calculation of its alternative approach mandatory prudent segregation amount under CASS 7.13.65 R is suitably designed to enable the firm to comply with CASS 7.13.65 R.

A firm that uses the alternative approach must review, at least on an annual basis and with no more than one year between each review, whether its reasons for adopting the alternative approach for a particular business line, as documented under CASS 7.13.55 R, continue to be valid.

If, following the review in (1), a firm finds that its reasons for adopting the alternative approach are no longer valid for a particular business line, it must stop using the alternative approach for that
business line as soon as reasonably practicable, and in any event within six months of the conclusion of its review in (1).

7.13.60  A firm that uses the alternative approach must not materially change how it will calculate and maintain the alternative approach mandatory prudent segregation amount under \( \text{CASS 7.13.65 R} \) unless:

(1) an auditor of the firm has prepared a report that complies with the requirements in \( \text{CASS 7.13.58 R (2)(b) in respect of the firm’s proposed changes; and} \)

(2) the firm provides a copy of the report prepared by the auditor under (a) to the FCA before implementing the change.

7.13.61  A firm is reminded that, under \( \text{SUP 3.4.2 R} \), it must take reasonable steps to ensure that its auditor has the required skill, resources and experience to perform its function.

7.13.62  A firm that uses the alternative approach for a particular business line must, on each business day (‘T0’):

(1) receive any money from and pay any money to (or, in either case, on behalf of) clients into and out of its own bank accounts;

(2) perform the necessary reconciliations of records and accounts required under \( \text{CASS 7.15 (Records, accounts and reconciliations)} \);

(3) adjust the balances held in its client bank account (by effecting transfers between its own bank account and its client bank account) to address any difference arising between its client money requirement and its client money resource as at the close of business on the previous business day (‘T-1’), so that the correct amount reflected in the reconciliations under (2) is segregated in its client bank account; and

(4) subject to CASS 7.13.63R below, keep segregated in its client bank account the balance held under (3) until it has performed a reconciliation on the following business day (‘T+1’) and as a result of that reconciliation is undertaking further adjustments under (3).

7.13.63  During the period between the adjustment in \( \text{CASS 7.13.62 R (3) and the completion of the next reconciliations in CASS 7.13.62 R (2), a firm that uses the alternative approach for a particular business line may:} \)

(1) increase the balance held in its client bank account by making intra-day transfers (during T0) from its own bank account to its client bank account before the completion of the internal client money reconciliation under \( \text{CASS 7.13.62 R (2) (that is expected sometime later on T0) only if:} \)

(a) the firm reasonably expects that the client money requirement for the previous business day (T-1) will increase above the client money resource currently (during T0) held in its client bank account; and
such reasonable expectations are based on the working calculation of the client money requirement relating to the previous business day (T-1) that the firm has already determined on that business day (during T0) (as part of the process of completing its internal client money reconciliation); or

(2) decrease the balance held in its client bank account by making intra-day transfers (during T0) from its client bank account to its own bank account before the completion of the internal client money reconciliation under CASS 7.13.62 R (2) (that is expected sometime later on T0) only if:

(a) the firm reasonably expects that the client money requirement for the previous business day (T-1) will decrease below the client money resource currently held (during T0) in its client bank account; and

(b) such reasonable expectations are based on the working calculation of the client money requirement relating to the previous business day (T-1) that the firm has already determined on that business day (during T0) (as part of the process of completing its internal client money reconciliation).

However, in doing so, a firm must act prudently and should take appropriate steps to manage the risk of not having segregated an amount that appropriately reflects its actual client money requirement at any given time.

It is anticipated that CASS 7.13.63 R may be used by firms which maintain client bank accounts in a number of different time zones and making adjustments to the balances of those client bank accounts is dependent on meeting cut off times for money transfers in those time zones.

(1) A firm that uses the alternative approach must, in addition to CASS 7.13.62 R, pay an amount (determined in accordance with this rule) of its own money into its client bank account and subsequently retain that money in its client bank account (alternative approach mandatory prudent segregation). The amount segregated by a firm in its client bank account under this rule is client money for the purposes of the client money rules and the client money distribution and transfer rules.

(2) The amount required to be segregated under this rule must be an amount that a firm reasonably determines would be sufficient, at the time it makes the determination, to protect client money against the risk that at any time in the following three months the following categories of client money may not have been fully segregated in its client bank account or may not be (or become) available for pooling under CASS 7A.2.4R (1), were a primary pooling event to occur:

(a) client money that is received and held by the firm in its own bank account during the period between:

(i) the firm’s adjustment of client bank account balances under CASS 7.13.62 R (3) on a particular business day; and

(ii) the firm’s subsequent adjustments under CASS 7.13.62 R (3) on the following business day; and
(b) money received and held by the firm in its own bank account which the firm does not initially identify as part of its client money requirement, but which subsequently does become part of its client money requirement;

with the effect that the firm’s alternative approach mandatory prudent segregation under this rule will reduce, as far as possible, any shortfall that might have been produced as a result of (a) or (b) on the occurrence of a primary pooling event.

(3) (a) Subject to (c), in reaching its determination under (2) of the amount of money that would be sufficient to address the risks referred to in (2) for the forthcoming three months, a firm must take into account the following in respect of each business line for which it uses the alternative approach, and for at least the previous three months:

(i) the firm’s client money requirement over the course of that prior period (excluding any amount that was required to be segregated under this rule during that prior period for the purposes of alternative approach mandatory prudent segregation);

(ii) the daily adjustment payments that the firm made into its client bank account under CASS 7.13.62 R (3) during that prior period; and

(iii) the amount of money received by the firm in its own bank account which it did not initially identify as part of its client money requirement, but which subsequently, and during that prior period, became part of its client money requirement;

as shown in its internal records.

(b) In reaching its determination under (2) a firm must also take into account, but at all times having regard to the requirement under (2), any impact that particular events, the seasonal nature of each relevant business line, or any other aspect of those business lines may have on:

(i) the firm’s client money requirement during the forthcoming three months for which the amount of alternative approach mandatory prudent segregation required under this rule is being determined;

(ii) the daily adjustment payments that the firm is likely to make into its client bank account under CASS 7.13.62 R (3) in that same period; and

(iii) the amount of unidentified receipts of money that the firm is likely to receive into its own bank account and which will subsequently, in that same period, become part of its client money requirement.

(c) If, at the time of its determination under (2), the firm has not been trading for three months in a business line for which it is using the alternative approach, then it must use the records that are available to it and must also factor in reasonable forecasts, as required under (b), to establish a three-month reference period.

(4) (a) A firm must, at regular intervals that are at least quarterly, repeat and complete the combined process of:
(i) determining the amount that it is required to segregate for the purposes of alternative approach mandatory prudent segregation under (2) and (3);

(ii) making necessary adjustments to its records to reflect any changes to its client money requirement (in accordance with CASS 7.16.16 R (3) and CASS 7.16.17 R (2)); and

(iii) paying any additional amounts of its own money into its client bank account to increase the firm’s alternative approach mandatory prudent segregation or withdrawing any excess amounts from its client bank account to decrease the firm’s alternative approach mandatory prudent segregation after it has adjusted its records under (ii).

(b) The combined process of (a)(i) to (iii) must take no longer than ten business days.

(c) To the extent that a firm’s compliance with (a)(i) and (ii) results in there being an excess in the firm’s client bank account, the firm may cease to treat that money as client money.

(5) A firm must ensure that the individual responsible for CASS oversight under CASS 1A.3.1 R, CASS 1A.3.1A R or CASS 1A.3.1C R (as appropriate) reviews the adequacy of the amount of the firm’s alternative approach mandatory prudent segregation maintained under this rule at least annually.

7.13.66 R

A firm must create and keep up-to-date records so that any amount of money that is, pursuant to CASS 7.13.65 R:

1. paid into a client bank account and retained as client money; or

2. withdrawn from a client bank account;

can be easily ascertained (the alternative approach mandatory prudent segregation record).

7.13.67 R

The alternative approach mandatory prudent segregation record under CASS 7.13.66 R must record:

1. the date of the first determination under CASS 7.13.65 R (2) and each subsequent review undertaken under CASS 7.13.65 R (4), and the total amount that the firm determined was required to be segregated under CASS 7.13.65 R (2) as at that date;

2. the date of any payment of the firm’s own money into a client bank account, or withdrawal of any excess from a client bank account under CASS 7.13.65 R, and for each such occasion:

(a) the amount of the payment or withdrawal;

(b) the fact that the money was paid or withdrawn by the firm in accordance with CASS 7.13.65 R; and

(c) as at that date, the total amount actually segregated by the firm under CASS 7.13.65 R.
7.13.68 R The alternative approach mandatory prudent segregation record must be retained for five years after the firm ceases to segregate any money in accordance with CASS 7.13.65 R.

7.13.69 G Nothing in CASS 7.13.54 G to CASS 7.13.68 R prevents a firm from also making use of the prudent segregation rule in CASS 7.13.41 R.

Use of the normal approach in relation to certain regulated clearing arrangements

7.13.70 G CASS 7.13.72 R sets out the circumstances under which a firm, that would otherwise be required to comply with the requirement in CASS 7.13.6 R to receive client money directly into a client bank account, must receive (or is permitted to receive) client money into its own bank account.

7.13.71 R A firm that is also a clearing member that is using the normal approach in connection with regulated clearing arrangements must use reasonable endeavours to ensure it is not required under its arrangements with an authorised central counterparty to receive mixed remittances from or pay mixed remittances to the authorised central counterparty through a single bank account.

7.13.72 R (1) If, notwithstanding its reasonable endeavours in accordance with CASS 7.13.71 R, the firm is required under its arrangements with an authorised central counterparty to:

(a) receive mixed remittances from the authorised central counterparty into a single bank account and pay mixed remittances to the authorised central counterparty from that bank account; or

(b) pay mixed remittances to the authorised central counterparty using a single bank account;

then such arrangements for client money are permitted if the firm complies, as applicable, with (2) and CASS 7.13.73 R.

(2) (a) In either or both of the circumstances described in (1):

(i) the firm must pay any mixed remittances to the authorised central counterparty from its own bank account; and

(ii) the firm is permitted to pay any remittances to the authorised central counterparty that consist only of client money from that same bank account.

(aa) In the circumstances described in (1)(a), the firm is permitted to receive any remittances that consist only of client money from the authorised central counterparty into the same bank account that it uses under (2)(a), if it complies with (b).

(b) Where, in the circumstances described in (1)(a), a mixed remittance or a remittance that consists only of client money from an authorised central counterparty is received into a firm’s own account, the firm must transfer any client money element of the remittance to its client bank account promptly and, in any event, no later than the next business day after receipt.
(1) Subject to paragraphs (2) and (3), CASS 7.13.73R to CASS 7.13.75R do not apply to a firm following a primary pooling event.

(2) If, at the time of a primary pooling event, a firm has retained money in a client bank account for the purposes of clearing arrangement mandatory prudent segregation under CASS 7.13.73R, that money remains client money for the purposes of the client money rules and the client money distribution and transfer rules.

(3) Where a firm holds a clearing arrangement mandatory prudent segregation record under CASS 7.13.76R following a primary pooling event, the clearing arrangement mandatory prudent segregation record must continue to satisfy the requirements set out in CASS 7.13.75R.

(1) Where the circumstances described in CASS 7.13.72 R (1)(a) apply to a firm it must pay an amount (determined in accordance with this rule) of its own money into its client bank account and retain that money in its client bank account (clearing arrangement mandatory prudent segregation). The amount segregated by a firm in its client bank account under this rule will be client money for the purposes of the client money rules and the client money distribution and transfer rules.

(2) The amount required to be segregated under this rule must be an amount that a firm reasonably determines would be sufficient, at the time it makes the determination, to protect client money against the risk that at any time in the following three months client money received from the authorised central counterparty and held by the firm in its own bank account following receipt of these monies under CASS 7.13.72 R (1)(a) and until their transfer in accordance with CASS 7.13.72 R (2)(b) may not have been fully segregated in its client bank account or may not be (or become) available for pooling under CASS 7A.2.4R (1), were a primary pooling event to occur with the effect that the firm’s clearing arrangement mandatory prudent segregation under this rule will reduce, as far as possible, any shortfall that might have been produced as a result of this risk on the occurrence of a primary pooling event.

(3) (a) Subject to (c), in reaching its determination under (2) of the amount of money that would be sufficient to address the risks referred to in (2) for the forthcoming three months, a firm must take into account the following for at least the previous three months:

(i) the firm’s client money requirement over the course of that prior period (excluding any amount that was required to be segregated under this rule during that prior period for the purposes of clearing arrangement mandatory prudent segregation); and

(ii) the payments that the firm made into its client bank account under CASS 7.13.72 R (2)(b) during that prior period;

as shown in its internal records.

(b) In reaching its determination under (2) a firm must also take into account, at all times having regard to the requirement under (2),
any impact that particular events, the seasonal nature of each relevant business line, or any other aspect of those business line(s) may have on:

(i) the firm's client money requirement during the forthcoming three months for which the amount of clearing arrangement mandatory prudent segregation required under this rule is being determined; and

(ii) the payments that the firm is likely to make into its client bank account under CASS 7.13.72 R (2)(b).

(c) If, at the time of its determination under (2), the firm has not been trading for three months in a business line for which it is using the normal approach in connection with regulated clearing arrangements, then it must use the records that are available to it and must also factor in reasonable forecasts, as required under (b), to make up a three-month reference period.

(4) (a) A firm must, at regular intervals that are at least quarterly, repeat and complete the combined process of:

(i) determining the amount that it is required to segregate for the purposes of clearing arrangement mandatory prudent segregation under (2) and (3);

(ii) making necessary adjustments to its records to reflect any changes to its client money requirement in accordance with CASS 7.16.16 R (3) and CASS 7.16.17 R (1); and

(iii) paying any additional amounts of its own money into its client bank account to increase the firm's clearing arrangement mandatory prudent segregation or withdrawing any excess amounts from its client bank account to decrease the firm's clearing arrangement mandatory prudent segregation after it has adjusted its records under (ii).

(b) The combined process of (a)(i) to (iii) must take no longer than ten business days.

(c) To the extent that a firm's compliance with (a)(i) and (ii) results in there being an excess in the firm's client bank account, the firm may cease to treat that money as client money.

(5) A firm must ensure that the individual responsible for CASS oversight under CASS 1A.3.1 R, CASS 1A.3.1A R or CASS 1A.3.1C R (as appropriate) reviews the adequacy of the amount of the firm's clearing arrangement mandatory prudent segregation maintained under this rule at least annually.

**Clearing arrangement mandatory prudent segregation record**

A firm must create and keep up-to-date records so that any amount of money that is, pursuant to CASS 7.13.73 R:

(1) paid into a client bank account and retained as client money; or

(2) withdrawn from a client bank account;

can be easily ascertained (the clearing arrangement mandatory prudent segregation record).
7.13.75 R The clearing arrangement mandatory prudent segregation record under CASS 7.13.74 R must record:

(1) the date of the first determination under CASS 7.13.73 R (2) and each subsequent review undertaken under CASS 7.13.73 R (4), and the total amount that the firm determined was required to be segregated under CASS 7.13.73 R (2) as at that date;

(2) the date of any payment of the firm's own money into a client bank account, or withdrawal of any excess from a client bank account under CASS 7.13.73 R (4)(a)(iii), and for each such occasion:
(a) the amount of the payment or withdrawal;
(b) the fact that the money was paid or withdrawn by the firm in accordance with CASS 7.13.73 R; and
(c) as at that date, the total amount actually segregated by the firm under CASS 7.13.73 R.

7.13.76 R The clearing arrangement mandatory prudent segregation record must be retained for five years after the firm ceases to segregate any money in accordance with CASS 7.13.73 R.

7.13.77 G Nothing in CASS 7.13.73 R to CASS 7.13.76 R prevents a firm from making use of the prudent segregation rule in CASS 7.13.41 R.

7.13.78 G The obligation to use reasonable endeavours referred to in CASS 7.13.71 R is a continuing obligation. Firms should at least on an annual basis, whether it is possible for payments of client money between the firm and the authorised central counterparties to be made separately from house monies and for such payments to be received into and made from its client bank accounts.

7.13.79 G Where a firm operates a sub-pool in accordance with CASS 7.19 (Clearing member client money sub-pools), the references to client bank accounts in CASS 7.13.70 G to CASS 7.13.78 G should be read as client bank accounts pertaining to the relevant sub-pool.
7.14 Client money held by a third party

7.14.1 This section sets out the requirements a firm must comply with when it allows another person to hold client money, other than under CASS 7.13.3 R, without discharging its fiduciary duty to that client. Such circumstances arise when, for example, a firm passes client money to a clearing house in the form of margin for the firm’s obligations to the clearing house that are referable to transactions undertaken by the firm for the relevant clients. They may also arise when a firm passes client money to an intermediate broker for contingent liability investments in the form of initial or variation margin on behalf of a client. In these circumstances, the firm remains responsible for that client equity balance held at the intermediate broker until the contract is terminated and all of that client’s positions at that broker closed. Similarly, this section applies where a firm allows a broker to hold client money in respect of the firm’s client’s non-margined transactions, again without the firm discharging its fiduciary duty to that client. In all cases, if a firm wishes to discharge itself from its fiduciary duty, it should do so in accordance with the rule regarding the discharge of a firm’s fiduciary duty to the client (CASS 7.11.34 R).

7.14.2 A firm may allow another person, such as an exchange, a clearing house or an intermediate broker, to hold client money, but only if:

1. the firm allows that person to hold the client money:
   a. for the purpose of one or more transactions for a client through or with that person; or
   b. to meet a client’s obligation to provide collateral for a transaction (for example, an initial margin requirement for a contingent liability investment); and

2. in the case of a retail client, that client has been notified that the firm may allow the other person to hold its client money.

7.14.3 Client money that a firm allows another person to hold under CASS 7.14.2 R:

1. should only be held for transactions which are likely to occur (and for which the other person needs to receive client money) or have recently settled (and such that the other person has received client money); and

2. should be recorded in client transaction accounts by that other person.
Apart from client money held by a firm in an individual client account or an omnibus client account at an authorised central counterparty, a firm should not hold excess client money in its client transaction accounts.

Client money arising from, or in connection with, safe custody assets

(1) Money arising from, or in connection with, the holding of a safe custody assets by a firm which is due to clients should, unless treated otherwise under the client money rules, be treated as client money by the firm.

(2) Firms are reminded of the guidance in CASS 6.1.2 G.

If a firm has deposited safe custody assets with a third party under CASS 6.3 and client money arises from, or in connection with, those safe custody assets then the firm must ensure that the third party either deposits the money in a client bank account of the firm or records it in a client transaction account for the benefit of the firm clients as appropriate.

Firms are reminded of the guidance in CASS 7.14.4 G which is applicable to client transaction accounts.

If the third party holding the safe custody assets under CASS 7.14.6 R is a bank with which the firm is permitted to deposit client money under CASS 7.13.3 R, then the client bank account referred to in CASS 7.14.6 R may be an account with that bank.

Firms are reminded of the requirements under CASS 7.18 for acknowledgement letters, which must be complied with before using client bank accounts and client transaction accounts.
7.15 Records, accounts and reconciliations

7.15.1 (1) This section sets out the requirements a firm must meet when keeping records and accounts of the client money it holds.

(2) Where a firm establishes one or more sub-pools, the provisions of CASS 7.15 (Records, accounts and reconciliations) shall be read as applying separately to the firm's general pool and each sub-pool in line with CASS 7.19.3 R and CASS 7.19.4 R.

7.15.2 A firm must keep such records and accounts as are necessary to enable it, at any time and without delay, to distinguish client money held for one client from client money held for any other client, and from its own money.

[Note: article 2(1)(a) of the MiFID Delegated Directive]

7.15.3 A firm must maintain its records and accounts in a way that ensures their accuracy, and in particular their correspondence to the client money held for clients and that they may be used as an audit trail.

[Note: article 2(1)(b) of the MiFID Delegated Directive]

7.15.4 (1) The requirements in CASS 7.15.2R to CASS 7.15.3R are for a firm to keep internal records and accounts of client money. Therefore, any records falling under those requirements should be maintained by the firm and should be separate to any records the firm may have obtained from any third parties, such as those with or through whom it may have deposited, or otherwise allowed to hold, client money.

(2) Where a firm complies with CASS 7.15 as a whole (to the extent applicable to that firm) this will be sufficient to comply with the specific duty in CASS 7.15.3R to maintain its records and accounts in a way that ensures that they can be used as an audit trail.

Record keeping

7.15.5 (1) A firm must maintain records so that it is able to promptly determine the total amount of client money it should be holding for each of its clients.

(2) A firm must ensure that its records are sufficient to show and explain its transactions and commitments for its client money.
(3) Unless otherwise stated, a firm must ensure that any record made under this chapter is retained for a period of five years starting from the later of:

(a) the date it was created; and

(b) (if it has been modified since the date it was created), the date it was most recently modified.

7.15.6 G  Unless required sooner under another rule in this chapter, in complying with ■ CASS 7.15.5 R (1) a firm should ensure it is able to determine the total amount of client money it should be holding for each client within two business days of having taken a decision to do so or at the request of the FCA.

7.15.7 R  For each internal client money reconciliation and external client money reconciliation the firm conducts, it must ensure that it records:

(1) the date it carried out the relevant process;

(2) the actions the firm took in carrying out the relevant process; and

(3) the outcome of its calculation of its client money requirement and client money resource.

Policies and procedures

7.15.8 G  Firms are reminded that they must, under ■ SYSC 6.1.1 R, establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the firm with the rules under this chapter. This should include, for example, establishing and maintaining policies and procedures concerning:

(1) the frequency and method of the reconciliations the firm is required to carry out under this section;

(2) the resolution of reconciliation discrepancies under this section; and

(3) the frequency at which the firm is required to review its arrangements in compliance with this chapter.

Receipts of client money

7.15.9 R  A firm must maintain appropriate records that account for all receipts of client money in the form of cash, cheque or other payable order that are not yet deposited in a client bank account (see ■ CASS 7.13.32 R and ■ CASS 7.13.33 R).

7.15.10 G  Firms following one of the standard methods of internal client money reconciliation in ■ CASS 7.16 are also reminded that they must, as part of their internal client money reconciliation, take into account all receipts of client money in the form of cash, cheque or other payable order that are not yet deposited in a client bank account (see ■ CASS 7.13.32 R and ■ CASS 7.13.33 R).
7.15.11 **Payments made to discharge fiduciary duty**

If a firm draws a cheque, or other payable order, to discharge its fiduciary duty to its clients (see ■ CASS 7.11.40 R), it must continue to record its obligation to its clients until the cheque, or other payable order, is presented and paid by the bank.

7.15.12 **Internal client money reconciliations**

An internal client money reconciliation requires a firm to carry out a reconciliation of its internal records and accounts of the amount of client money that the firm holds for each client with its internal records and accounts of the client money the firm should hold in client bank accounts or has placed in client transaction accounts.

In carrying out an internal client money reconciliation, a firm must use the values contained in its internal records and ledgers (for example, its cash book or other internal accounting records) rather than the values contained in the records it has obtained from banks and other third parties with whom it has placed client money (for example, bank statements).

7.15.14 **An internal client money reconciliation should:**

(1) be one of the steps a firm takes to arrange adequate protection for clients’ assets when the firm is responsible for them (see Principle 10 (Clients’ assets), as it relates to client money);

(2) be one of the steps a firm takes to satisfy its obligations under ■ CASS 7.12.2 R and ■ CASS 7.15.3 R and, where relevant, ■ SYSC 4.1.1R (1) and ■ SYSC 6.1.1 R, to ensure the accuracy of the firm’s records and accounts;

(3) for the normal approach to segregating client money (■ CASS 7.13.6 R), check whether the amount of client money recorded in the firm’s records as being segregated in client bank accounts meets the firm’s obligations to its clients under the client money rules on a daily basis; and

(4) for the alternative approach to segregating client money (■ CASS 7.13.62 R), calculate the amount of client money to be segregated in client bank accounts which meets the firm’s obligations to its clients under the client money rules on a daily basis.

7.15.15 **(1)** Subject to paragraph (4), a firm must perform an internal client money reconciliation:

(a) each business day; and

(b) based on the records of the firm as at the close of business on the previous business day.

(2) When performing an internal client money reconciliation, a firm must, subject to (3), follow one of the standard methods of internal client money reconciliation in ■ CASS 7.16.
(3) A firm proposing to follow a non-standard method of internal client money reconciliation must comply with the requirements in §CASS 7.15.17 R to §CASS 7.15.19 G.

(4) Following a primary pooling event, and in addition to any obligations of a special administrator under regulation 10H of the IBSA Regulations:

(a) a firm must perform an internal client money reconciliation that relates to the time of the primary pooling event as soon as reasonably practicable after the primary pooling event; and

(b) the firm must perform further internal client money reconciliations as regularly as required under paragraph (5), based on the records of the firm as at the close of business on the business day before the day on which the reconciliation takes place.

(5) A firm must determine when and how often to perform an internal client money reconciliation under paragraph (4)(b) so as to ensure that:

(a) the firm remains in compliance with §CASS 7.15.2R, §CASS 7.15.3R and §CASS 7.15.5R(1) and (2) (Record keeping); and

(b) the correct amounts of client money are returned to clients or transferred on behalf of clients under the client money distribution and transfer rules.

7.15.15A G

(1) The reference point for the internal client money reconciliation under §CASS 7.15.15R(4)(a) should be the precise point in time at which the primary pooling event occurred.

(2) When a firm decides whether it is necessary at any particular point in time to perform an internal client money reconciliation under §CASS 7.15.15R(4)(b), it should have particular regard to the need to maintain its books and accounts in order to ensure that:

(a) each notional pool of client money formed under §CASS 7A.2.4R(1) and (1A) (Pooling and distribution or transfer) is correctly composed and maintained, and is treated separately;

(b) client money that is required under §CASS 7A.2.4R(3) (Pooling and distribution or transfer) and §CASS 7A.2.7-AR (Client money received after a primary pooling event) to be treated as outside of any notional pool is treated accordingly; and

(c) where applicable, clients’ entitlements to their client money are calculated in accordance with §CASS 7A.2.5R(-2)(b) (Client money entitlements).

(4) Depending on the circumstances of the firm and the scale, frequency and nature of activity after a primary pooling event that affects client money, a firm may conclude that it is necessary to continue performing internal client money reconciliations each business day for a period of time after the primary pooling event.

7.15.16 R

(1) A firm which has adopted the normal approach to segregating client money (see §CASS 7.13.6 R) must use the internal client money
reconciliation to check whether its client money resource, as at the close of business on the previous business day, was equal to its client money requirement at the close of business on that previous day.

(2) A firm that adopts the alternative approach to segregating client money (see CASS 7.13.54 G) must use the internal client money reconciliation to ensure that its client money resource as at the close of business on any day it carries out an internal client money reconciliation is equal to its client money requirement at the close of business on the previous day.

Non-standard method of internal client money reconciliation

A non-standard method of internal client money reconciliation is a method of internal client money reconciliation which does not meet the requirements in CASS 7.16 (The standard methods of internal client money reconciliation).

(1) Before using a non-standard method of internal client money reconciliation, a firm must:

(a) establish and document in writing its reasons for concluding that the method of internal client money reconciliation it proposes to use will:

(i) (for the normal approach to segregating client money) check whether the amount of client money recorded in the firm’s records as being segregated in client bank accounts meets the firm’s obligation to its clients under the client money rules on a daily basis; or

(ii) (for the alternative approach to segregating client money) calculate the amount of client money to be segregated in client bank accounts which meets the firm’s obligations to its clients under the client money rules on a daily basis;

(b) notify the FCA of its intentions to use a non-standard method of internal client money reconciliation; and

(c) send a written report to the FCA prepared by an independent auditor of the firm in line with a reasonable assurance engagement and stating the matters set out in (2).

(2) The written report in (1)(c) must state whether in the auditor’s opinion:

(a) the method of internal client money reconciliation which the firm will use is suitably designed to enable it to (as applicable):

(i) (for the normal approach to segregating client money) check whether the amount of client money recorded in the firm’s records as being segregated in client bank accounts meets the firm’s obligation to its clients under the client money rules on a daily basis; or

(ii) (for the alternative approach to segregating client money) calculate the amount of client money to be segregated in client bank accounts which meets the firm’s obligations to its clients under the client money rules on a daily basis; and
(b) the firm's systems and controls are suitably designed to enable it to carry out the method of internal client money reconciliation the firm will use.

(3) A firm using a non-standard method of internal client money reconciliation must not materially change its method of undertaking internal client money reconciliations unless:

(a) the firm has established and documented in writing it reasons for concluding that the changed methodology will meet the requirements in (1)(a)(i) and (ii), as applicable;

(b) an auditor of the firm has prepared a report that complies with the requirements in (1)(c) and (2) in respect of the firm's proposed changes; and

(c) the firm provides a copy of the report prepared by the auditor under (2) to the FCA before implementing the change.

7.15.19 A firm is reminded that, under SUP 3.4.2 R, it must take reasonable steps to ensure that its auditor has the required skill, resources and experience to perform its function.

External client money reconciliations

7.15.20 A firm must conduct, on a regular basis, reconciliations between its internal records and accounts and those of any third parties which hold client money.

[Note: article 2(1)(c) of the MiFID Delegated Directive]

7.15.21 The purpose of an external client money reconciliation is to ensure the accuracy of a firm's internal records and accounts against those of any third parties by whom client money is held.

Frequency of external client money reconciliations

7.15.21A CASS 7.15.22R to 7.15.26R do not apply to a firm following a primary pooling event.

7.15.21B CASS 7.15.26AR applies to a firm following a primary pooling event.

7.15.22 A firm must perform an external client money reconciliation:

(1) as regularly as is necessary but without allowing more than one month to pass between each external client money reconciliation; and

(2) as soon as reasonably practicable after the date to which the external client money reconciliation relates.

7.15.23 When determining the frequency at which it will undertake external client money reconciliations, a firm must have regard to:
(1) the frequency, number and value of transactions which the firm undertakes in respect of client money; and

(2) the risks to which the client money is exposed, such as the nature, volume and complexity of the firm’s business and where and with whom client money is held.

7.15.24 R

(1) A firm must make and retain records sufficient to show and explain any decision it has taken under CASS 7.15.23 R when determining the frequency of its external client money reconciliation. Subject to (2), any such records must be retained indefinitely.

(2) If any decision under CASS 7.15.23 R is superseded by a subsequent decision under that rule then the record of that earlier decision retained in accordance with (1) need only be retained for a further period of five years from the subsequent decision.

7.15.25 G

In most circumstances, firms which undertake transactions on a daily basis should conduct an external client money reconciliation each business day.

7.15.26 R

(1) Subject to (3), a firm must review the frequency it conducts its external client money reconciliations at least annually to ensure that it continues to comply with CASS 7.15.22 R and has given due consideration to the matters in CASS 7.15.23 R.

(2) For each review a firm undertakes under (1), it must record the date and the actions it took in reviewing the frequency of its external client money reconciliations.

(3) A firm need not carry out a review under (1) if it is conducting external client money reconciliations each business day.

Frequency of external reconciliations after a primary pooling event

Following a primary pooling event, and in addition to any obligations of a special administrator under regulation 10H of the IBSA Regulations:

(1) a firm must perform an external client money reconciliation that relates to the time of the primary pooling event as soon as reasonably practicable after the primary pooling event, based on the next available statements or other form of confirmation after the primary pooling event from:

(a) the banks with which the firm holds a client bank account; and

(b) the persons with which the firm holds a client transaction account; and

(2) the firm must perform further external client money reconciliations on a regular basis:

(a) with a suitable frequency to ensure that the correct amounts of client money are returned to clients or transferred on behalf of clients under the client money distribution and transfer rules; and
(b) as soon as reasonably practicable after the date to which the external client money reconciliation relates.

7.15.26B  The reference point for the external client money reconciliation under ■ CASS 7.15.26AR(1) should be the precise point in time at which the primary pooling event occurred.

7.15.26C  When determining the frequency with which it will undertake external client money reconciliations under ■ CASS 7.15.26AR(2) after a primary pooling event, a firm must have regard to:

1. the frequency, number and value of transactions which the firm undertakes in respect of client money;
2. the risks to which the client money is exposed, such as the nature, volume and complexity of the firm’s business and where and with whom client money is held; and
3. the need to be able to verify that:
   - client money within each notional pool formed under ■ CASS 7A.2.4R(1) and (1A) (Pooling and distribution or transfer), and client money that is required under ■ CASS 7A.2.4R(3) (Pooling and distribution or transfer) and ■ CASS 7A.2.7-AR (Client money received after a primary pooling event) to be treated as outside of any notional pool, has not been incorrectly distributed, transferred or dissipated; and
   - the proceeds of any payments and transactions that settle after the primary pooling event and which involve client money, including interest payments and other amounts included in the client money resource, have been received correctly.

Method of external client money reconciliations

An external client money reconciliation requires a firm to:

1. compare:
   (a) the balance, currency by currency, on each client bank account recorded by the firm, as set out in the most recent statement or other form of confirmation issued by the bank with which those accounts are held; and
   (b) the balance, currency by currency, on each client transaction account as recorded by the firm, as set out in the most recent statement or other form of confirmation issued by the person with whom the account is held; and

2. promptly identify and resolve any discrepancies between those balances under ■ CASS 7.15.31 R and ■ CASS 7.15.32 R.

A firm must ensure it includes the following items within its external client money reconciliation:
7.15.29 | When a discrepancy arises between a firm’s client money resource and its client money requirement identified by a firm’s internal client money reconciliations, the firm must determine the reason for the discrepancy and, subject to Section 7.15.29AR, ensure that:

1. any shortfall is paid into a client bank account by the close of business on the day that the reconciliation is performed; or

2. any excess is withdrawn from a client bank account within the same time period.

7.15.29A | A firm that has failed is not required to make a payment or withdrawal under Section 7.15.29R(1) or Section 7.15.29R(2) respectively in so far as the legal procedure for the firm’s failure restricts the firm from doing so.

7.15.30 | Where the discrepancy identified under Section 7.15.29R has arisen as a result of a breach of the client money segregation requirements, the firm should ensure it takes sufficient steps to avoid a reoccurrence of that breach (see Principle 10 (Clients’ assets), as it relates to client money, Section 7.15.3R and, where relevant, SYSC 4.1.1R (1) and SYSC 6.1.1R).

7.15.31 | If any discrepancy is identified by an external client money reconciliation, the firm must investigate the reason for the discrepancy and take all reasonable steps to resolve it without undue delay, unless the discrepancy arises solely as a result of timing differences between the accounting systems of the party providing the statement or confirmation and that of the firm.

7.15.32 | While a firm is unable to immediately resolve a discrepancy identified by an external client money reconciliation, and one record or set of records examined by the firm during its external client money reconciliation indicates that there is a need to have a greater amount of client money or, if appropriate, approved collateral than is the case, the firm must assume, until the matter is finally resolved, that that record or set of records is accurate and, subject to Section 7.15.32AR, pay its own money into a relevant account.

7.15.32A | A firm that has failed is not required to pay its own money into a relevant account under Section 7.15.32R in so far as the legal procedure for the firm’s failure restricts the firm from doing so.

7.15.32B | (1) Section 7.15.29AR and Section 7.15.32AR recognise that a failed firm is required to investigate discrepancies, but the extent to which it is able to resolve discrepancies may be limited by insolvency law, for example.
(2) ■CASS 7.15.29AR and ■CASS 7.15.32AR would not prevent a failed firm from making any transfers required under regulation 10H(3) or (4) of the IBSA Regulations.

Notification requirements

A firm must inform the FCA in writing without delay if:

(1) its internal records and accounts of client money are materially out of date, inaccurate or invalid so that the firm is no longer able to comply with the requirements in ■CASS 7.15.2 R, ■CASS 7.15.3 R or ■CASS 7.15.5 R (1);

(2) it will be unable to, or materially fails to, pay any shortfall into a client bank account or withdraw any excess from a client bank account so that the firm is unable to comply with ■CASS 7.15.29 R after having carried out an internal client money reconciliation;

(3) it will be unable to, or materially fails to, identify and resolve any discrepancies under ■CASS 7.15.31 R to ■CASS 7.15.32 R after having carried out an external client money reconciliation;

(4) it will be unable to, or materially fails to, conduct an internal client money reconciliation in compliance with ■CASS 7.15.12 R and ■CASS 7.15.15 R;

(5) it will be unable to, or materially fails to, conduct an external client money reconciliation in compliance with ■CASS 7.15.20 R to ■CASS 7.15.28 R; and

(6) it becomes aware that, at any time in the preceding 12 months, the amount of client money segregated in its client bank accounts materially differed from the total aggregate amount of client money the firm was required to segregate in client bank accounts under the client money segregation requirements.

Annual audit of compliance with the client money rules

Firms are reminded that the auditor of the firm has to confirm in the report submitted to the FCA under ■SUP 3.10 (Duties of auditors: notification and report on client assets) that the firm has maintained systems adequate to enable it to comply with the client money rules.
7.16 The standard methods of internal client money reconciliation

7.16.1 (1) Firms are required to carry out an internal client money reconciliation each business day (CASS 7.15.12 R and CASS 7.15.15R(1)) or as required by CASS 7.15.15R(4) after a primary pooling event. This section sets out methods of reconciliation that are appropriate for these purposes (the standard methods of internal client money reconciliation).

(2) Where a firm establishes one or more sub-pools, the provisions of CASS 7.16 (The standard methods of internal client money reconciliation) shall be read as applying to the firm’s general pool and each sub-pool individually, in line with CASS 7.19.3 R and CASS 7.19.4 R.

7.16.2 (1) A non-standard method of internal client money reconciliation is a method of internal client money reconciliation which does not meet the requirements of this section.

(2) Where a firm uses a non-standard method of internal client money reconciliation it is reminded that it must comply with the requirements in CASS 7.15.18 R.

7.16.3 Regardless of whether a firm is following one of the standard methods of internal client money reconciliation or a non-standard method of internal client money reconciliation, it is reminded that it must maintain its records so that it is able to promptly calculate the total amount of client money it should be holding for each client (see CASS 7.15.15 R (1)).

7.16.4 Firms are reminded that the internal client money reconciliation should achieve the purposes set out in CASS 7.15.14 G.

7.16.5 (1) A firm that adopts the normal approach to segregating client money (CASS 7.13.6 R) will be using the methods in this section to check whether it has correctly segregated client money in its client bank accounts.

(2) A firm that adopts the alternative approach to segregating client money (CASS 7.13.54 G) will be using the methods in this section to calculate how much money it needs to withdraw from, or place in, client bank accounts as a result of any discrepancy arising between its
Client money

Section 7.16: The standard methods of internal client money reconciliation

client money requirement and its client money resource at the close of business on the previous business day.

7.16.6

Unless otherwise stated, firms are reminded that they are required to receive all client money receipts directly into a client bank account (see CASS 7.13.6 R).

7.16.7

A firm that receives client money in the form of cash, a cheque or other payable order is reminded that it must pay that money (eg, into a client bank account) no later than on the business day after it receives the money (see CASS 7.13.32 R). Once deposited into a client bank account, that receipt of client money should form part of the firm’s client money resource (see CASS 7.16.8 R). In calculating its client money requirement, a firm will need to take into account any client money received as cash, cheques or payment orders but not yet deposited into a client bank account (see CASS 7.16.25 R (3) and CASS 7.16.26 G).

Client money resource

7.16.8

The client money resource is the aggregate balance on the firm’s client bank accounts.

7.16.9

(1) A firm should ensure that the amount it reflects in its internal client money reconciliation as its client money resource is equal to the aggregate balance on its client bank accounts. For example, if:

(a) a firm holds client money received as cash, cheques or payment orders but not yet deposited in a client bank account (in accordance with CASS 7.13.32 R); and

(b) that firm records all receipts from clients, whether or not yet deposited with a bank, in its cashbook (see CASS 7.16.26 G (1)(a)); its client money resource should not include the cash, cheques or payment orders received but not yet deposited in a client bank account.

(2) The guidance in (1) is consistent with a firm’s obligations to maintain its internal records in an accurate way, particularly their correspondence to the client money held for clients.

Client money requirement

7.16.10

Subject to CASS 7.16.12 R, the client money requirement must be calculated by one, but not both, of the following of two methods:

(1) the individual client balance method (CASS 7.16.16 R); or

(2) the net negative add-back method (CASS 7.16.17 R).

7.16.11

The net negative add-back method may only be used, under this section, by a CASS 7 asset management firm or a CASS 7 loan-based crowdfunding firm and only if such firms do not undertake any margined transactions for, or on behalf of, their clients.
A CASS 7 loan-based crowdfunding firm must not use the individual client balance method under this section.

The client money requirement should represent the total amount of client money a firm is required to have segregated in client bank accounts under the client money rules.

■ CASS 7.16.11 R does not prevent a firm from adopting a net negative add-back method as part of a non-standard method of internal client money reconciliation.

■ CASS 7.16.12 R does not prevent a CASS loan-based crowdfunding firm from adopting the individual client balance method as part of a non-standard method of internal client money reconciliation.

If a firm uses the individual client balance method in respect of some of its business lines and the net negative add-back method in respect of others it will be conducting a non-standard method of internal client money reconciliation.

The individual client balance method (■ CASS 7.16.16 R) may be applied by any firm except a CASS 7 loan-based crowdfunding firm. This method requires a firm to calculate the total amount of client money it should be segregating in client bank accounts by reference to how much the firm should be holding in total (i.e., across all its client bank accounts and businesses) for each of its individual clients for:

(a) non-margined transactions (■ CASS 7.16.16 R (1) and ■ CASS 7.16.21 R);

(b) margined transactions (■ CASS 7.16.16 R (2) and ■ CASS 7.16.32 R);

and

(c) certain other matters (■ CASS 7.16.16 R (3) and ■ CASS 7.16.25 R).

■ CASS 7.16.22 E is an evidential provision which sets out a method firms should use for calculating how much they should be holding in total for each individual client for non-margined transactions.

The calculation in ■ CASS 7.16.22 E permits a firm to calculate either one individual client balance across all its products and business lines for each client or a number of individual client balances for each client equal to the number of products or business lines operated by the firm in connection with that client (see ■ CASS 7.16.22 E (1)).

The calculation referred to in (2)(b) may also be applied by different types of firms and, as a result, each firm will need to apply the calculation in way which recognises the business model under which that firm operates.

The net negative add-back method (■ CASS 7.16.17 R) is available to CASS 7 asset management firms and CASS 7 loan-based crowdfunding firms, many of whom may operate internal ledger systems on a bank account by bank account, not client-by-client, basis. This method allows a firm to calculate the
total amount of client money it is required to have segregated in client bank accounts by reference to:

(1) the balances in each client bank account (see ■ CASS 7.16.17 R (1) and ■ CASS 7.16.18 G (2));

(2) whether any individual client’s net position in a specific client bank account is negative (see ■ CASS 7.16.17 R (2) and ■ CASS 7.16.18 G (2)); and

(3) certain other matters (see ■ CASS 7.16.17 R (2) and ■ CASS 7.16.25 R).

Client money requirement calculation: individual client balance method

Subject to ■ CASS 7.16.25 R and ■ CASS 7.16.37 R, under this method the client money requirement must be calculated by taking the sum of, for all clients and across all products and accounts:

(1) the individual client balances calculated under ■ CASS 7.16.21 R, excluding:
   (a) individual client balances which are negative (i.e., debtors); and
   (b) clients’ equity balances;

(2) the total margined transaction requirement (calculated under ■ CASS 7.16.32 R); and

(3) any amounts that have been segregated as client money according to the firm’s records under any of the following: ■ CASS 7.13.51 R (1) (prudent segregation record), ■ CASS 7.13.66 R (alternative approach mandatory prudent segregation record) and/or ■ CASS 7.13.74 R (clearing arrangement mandatory prudent segregation record).

Client money requirement calculation: net negative add-back method

Subject to ■ CASS 7.16.25 R, under this method the client money requirement must be calculated by taking the sum of, for each client bank account:

(1) the amount which the firm’s internal records show as held on that account; and

(2) an amount that offsets each negative net amount which the firm’s internal records show attributed to that account for an individual client.

1 A firm which utilises the net negative add-back method is reminded that it must do so in a way which allows it to maintain its records so that, at any time, the firm is able to promptly determine the total amount of client money it should be holding for each client (see ■ CASS 7.15.5 R (1)).

2 For the purposes of ■ CASS 7.16.17 R, a firm should be able to readily use the figures previously recorded in its internal records and ledgers (for example, its cashbook or other internal accounting records) as at...
7.16.19  

(1) A firm which utilises the net negative add-back method may calculate its client money requirement and client money resource on a bank account by bank account basis;

(2) For the purposes of CASS 7.16.17 R, a firm should take into account any amounts that have been segregated as client money according to the firm’s records under either or both CASS 7.13.50 R (prudent segregation record) and CASS 7.13.66 R (alternative approach mandatory prudent segregation record).

Non-margined transactions (eg, securities): individual client balance

7.16.20  

The sum of positive individual client balances for each client should represent the total amount of all money the firm holds, has received or is obligated to have received or be holding as client money in a client bank account for that client for non-margined transactions.

7.16.21  

A firm must calculate a client’s individual client balances in a way which captures the total amount of all money the firm should be holding as client money in a client bank account for that client for non-margined transactions under the client money rules.

7.16.22  

(1) A firm may calculate either:

(a) one individual client balance for each client, based on the total of the firm’s holdings for that client; or

(b) a number of individual client balances for each client, equal to the number of products or business lines the firm operates for that client and each balance based on the total of the firm’s holdings for that client in respect of the particular product or business line.

(2) Each individual client balance for a client should be calculated in accordance with this table:

<table>
<thead>
<tr>
<th>Individual client balance calculation</th>
<th>A</th>
<th>B</th>
<th>C1</th>
<th>C2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free money (sums held for a client free of sale or purchase (eg, see (3)(a)) and sale proceeds due to the client:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) for principal deals when the client has delivered the designated investments; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) for agency deals, when:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) the sale proceeds have been received by the firm and the client has delivered the designated investments; or</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii) the firm holds the designated investments for the client; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the cost of purchases:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(c) for principal deals, paid for by the client when the firm has not delivered the designated investments to the client; and
(d) for agency deals, paid for by the client when:
   (i) the firm has not remitted the money to, or to the order of, the counterparty; or
   (ii) the designated investments have been received by the firm but have not been delivered to the client;

Less
   money owed by the client for unpaid purchases by, or for, the client if delivery of those designated investments has been made to the client; and
   proceeds remitted to the client for sales transactions by, or for, the client if the client has not delivered the designated investments.

Individual client balance 'X' = (A+B+C1+C2+D+E1+E2)-F-G X

(3) When calculating an individual client balance for each client, a firm should also:

(a) ensure it includes:
   (i) client money consisting of dividends received and interest earned and allocated (see CASS 7.11.32 R);
   (ii) client money consisting of dividends (actual or payments in lieu), stock lending fees and other payments received and allocated (see CASS 6.1.2 G);
   (iii) money the firm appropriates and segregates as client money to cover an unresolved shortfall in safe custody assets it identifies in its internal records which is attributable to an individual client (see CASS 6.6.54R (2)); and
   (iv) money the firm segregates as client money instead of an individual client's safe custody asset until such time as the relevant delivery versus payment transaction settles under CASS 6.1.12R (2); and

(b) deduct any amounts due and payable by the client to the firm (see CASS 7.11.25 R).

(4) Compliance with (1), (2) and (3) may be relied on as tending to establish compliance with CASS 7.16.21 R.

7.16.23 R A firm must calculate an individual client balance using the contract value of any client purchases or sales, being the value to which the client would be contractually entitled to receive or contractually obligated to pay.

7.16.24 G If a firm calculates each individual client balance on a product-by-product or business line-by-business line basis under CASS 7.16.22 E (1)(b), the result should be that the firm does not net client positions across all products and accounts.
Other requirements for calculating the client money requirement

When calculating the client money requirement under either of the methods in CASS 7.16.10 R, a firm must:

1. include any unallocated client money (see CASS 7.13.36 R) and unidentified receipts of money it considers prudent to segregate as client money (see CASS 7.13.37 R);

2. include any money the firm appropriates and holds as client money to cover an unresolved shortfall in safe custody assets identified in its internal records which is not attributable, or cannot be attributed to, an individual client (see CASS 6.6.49 R, CASS 6.6.50 R and CASS 6.6.54 R);

3. take into account any client money received as cash, cheques or payment orders but not yet deposited into a client bank account under CASS 7.13.32 R (see also CASS 7.15.9 R);

4. if it has drawn any cheques or other payable orders, to discharge its fiduciary duty to its clients and continue to treat the sum concerned as forming part of its client money requirement until the cheque or order is presented and paid by the bank (see CASS 7.11.40 R); and

5. ensure it has taken into account all client money the firm should be holding in connection with clients’ non-margined transactions.

(1) Under CASS 7.16.25 R (3), where a firm holds client money received as cash, cheques or payment orders but not yet deposited in a client bank account under CASS 7.13.32 R, it may:

(a) include these balances when calculating its client money requirement (eg, where the firm records all receipts from clients, whether or not yet deposited with a bank, in its cashbook); or

(b) exclude these balances when calculating its client money requirement (eg, where the firm only records client receipts to its cashbook once deposited with a bank).

(2) In line with (1)(a), the firm will need to ensure that, before finalising the calculation of its client money requirement within this section, it deducts these balances, to ensure that they do not give rise to a discrepancy between the firm’s client money requirement and client money resource (see CASS 7.15.29 R).

(3) In line with (1)(b), although the balances concerned do not form part of the firm’s client money requirement, the firm must continue to account for all receipts of client money as cash, cheques or payment orders but not yet deposited in a client bank account in its records and accounts (see CASS 7.13.32 R and CASS 7.15.9 R).

(1) In accordance with CASS 7.16.25 R (5), where a firm has allowed another person to hold client money in connection with a client’s non-margined transaction (eg, in a client transaction account under CASS 7.14 (Client money held by a third party)), the firm should include these balances when calculating its client money requirement.
(2) If a firm is utilising the individual client balance method (CASS 7.16.16 R) to calculate its client money requirement,
CASS 7.16.21 R requires the firm to include the sums its holds for each client that are placed with another person in connection with a client’s non-margined transaction when calculating a client’s individual client balance (eg, see CASS 7.16.22 E and items C1 and E2).

(3) Under (1) and (2), the firm will need to ensure that, before finalising the calculation of its client money requirement within this section, it deducts positive balances held for clients adding back negative balances attributable to clients’ non-margined transactions in client transaction accounts, to ensure that they do not give rise to a discrepancy between the firm’s client money requirement and client money resource (see CASS 7.15.29 R).

(4) Under (1), (2) and (3), in determining the balances of client money a firm has allowed another person to hold in connection with a client’s non-margined transaction or the balances held for clients’ non-margined transactions in client transaction accounts, a firm should use the values contained in its internal records and ledgers (see CASS 7.15.13 R).

Margined transactions (eg, derivatives): equity balances

Subject to CASS 7.16.30 R, a client’s equity balance is the amount which the firm would be liable to pay to the client (or the client to the firm) under the client money rules for margined transactions if each of the open positions were liquidated at the closing or settlement prices published by the relevant exchange or other appropriate pricing source and the account with the firm were closed. This notional balance should include any unrealised losses or profits associated with that client’s open positions, and any margin the firm has received from the client in connection with those positions.

Subject to CASS 7.16.30 R, a firm’s equity balance is the amount which the firm would be liable to pay to the exchange, clearing house, intermediate broker or OTC counterparty (or vice-versa) for the firm’s margined transactions if each of the open positions of those of the firm’s clients that are entitled to protection under the client money rules were liquidated at the closing or settlement prices published by the relevant exchange or other appropriate pricing source and the firm’s client transaction accounts with that exchange, clearing house, intermediate broker or OTC counterparty were closed. This notional balance should include any unrealised losses or profits associated with the open positions the firm holds for clients and any margin the firm holds for clients in the relevant client transaction accounts.

The terms ‘client’s equity balance’ and ‘firm’s equity balance’ refer to cash values and do not include non-cash collateral or other designated investments (including approved collateral) the firm holds for a margined transaction.

Margined transactions (eg, derivatives): margined transaction requirement

The margined transaction requirement should represent the total amount of client money a firm is required under the client money rules to segregate in...
client bank accounts for margined transactions. The calculation in ■ CASS 7.16.33 R is designed to ensure that an amount of client money is held in client bank accounts which equals at least the difference between the equity the firm holds at exchanges, clearing houses, intermediate brokers and OTC counterparties for margined transactions for clients entitled to protection under the client money rules, and the amount due to clients under the client money rules for those same margined transactions. With this calculation, a firm’s margined transaction requirement should represent, if positions were unwound, the firm’s gross liabilities to clients entitled to protection under the client money rules for margined transactions.

7.16.32 R

The total margined transaction requirement is:

1. the sum of each of the client’s equity balances which are positive; less
2. the proportion of any individual negative client equity balance which is secured by client approved collateral; and
3. the net aggregate of the firm’s equity balance (negative balances being deducted from positive balances) on client transaction accounts for customers with exchanges, clearing houses, intermediate brokers and OTC counterparties.

7.16.33 R

1. To meet the total margin transaction requirement, a firm may appropriate and use its own approved collateral, provided it meets the requirements in (2).

2. The firm must hold the approved collateral in a way which ensures that, in accordance with ■ CASS 7A.2.3A R, the approved collateral will be liquidated on the occurrence of a primary pooling event and the proceeds paid into a client bank account, and in so doing:

   a. ensure the approved collateral is clearly identifiable as separate from the firm’s own property and is recorded by the firm in its records as being held for its clients;

   b. keep a record of the actions the firm has taken under this rule which includes a description of the terms on which the firm holds the approved collateral, identifies that the approved collateral is held for the benefit of its clients and specifies the approved collateral that the firm has appropriated for the purposes of this rule; and

   c. update the record made under (b) whenever the firm ceases to appropriate and use approved collateral under this rule.

7.16.34 G

Where ■ CASS 7.16.33 R applies, the firm will be reducing the requirement arising from ■ CASS 7.16.16 R (2) and, as such, simultaneously reducing its overall client money requirement (ie, the amount of money the firm is required to segregate in client bank accounts).

7.16.35 R

If a firm’s total margined transaction requirement is negative, the firm must treat it as zero for the purposes of calculating its client money requirement.
LME bond arrangements

7.16.36 R A firm with a Part 30 exemption order which also operates an LME bond
arrangement for the benefit of US-resident investors must exclude the client
equity balances for transactions undertaken on the LME on behalf of those
US-resident investors from the calculation of the margined transaction
requirement, to the extent those transactions are provided for by an LME
bond arrangement (see CASS 12.2.3 G).

Reduced client money requirement option

7.16.37 R Where appropriate, a firm may:

(1) when, in respect of a client, there is a positive individual client
balance and a negative client equity balance, offset the credit against
the debit and, therefore, have a reduced individual client balance in
CASS 7.16.21 R for that client; and

(2) when, in respect of a client, there is a negative individual client
balance and a positive client equity balance, offset the credit against
the debit and, therefore, have a reduced client equity balance
(CASS 7.16.28 R) for that client.

7.16.38 G The effect of CASS 7.16.37 R is to allow a firm to offset, on a client-by-client
basis, a negative amount with a positive amount arising out of the
calculations in CASS 7.16.21 R and CASS 7.16.28 R and, therefore, reduce its
overall client money requirement.
7.17 Statutory trust

7.17.1 Section 137B(1) of the Act (Miscellaneous ancillary matters) provides that rules may make provision which result in client money being held by a firm on trust (England and Wales and Northern Ireland) or as agent (Scotland only). This section creates a fiduciary relationship between the firm and its client under which client money is in the legal ownership of the firm but remains in the beneficial ownership of the client. In the event of failure of the firm, costs relating to the distribution of client money may have to be borne by the trust.

Requirement

7.17.2 Subject to CASS 7.17.3 R in respect of a trustee firm, a firm receives and holds client money as trustee on the following terms:

(1) for the purposes of, and on the terms of, the client money rules and the client money distribution and transfer rules;

(2) (a) where a firm maintains only a general pool of client money, subject to (4), for the clients (other than clients which are insurance undertakings when acting as such with respect to client money received in the course of insurance distribution activity and that was opted in to this chapter) for whom that money is held, according to their respective interests in it;

(b) where a firm has established one or more pools of client money, subject to (4):

(i) the general pool is held for all the clients of the firm for whom the firm receives or holds client money (other than clients which are insurance undertakings when acting in regard to client money received during insurance distribution activity and that was opted in to this chapter) according to their respective interests; and

(ii) each sub-pool is for the clients of the firm who are identified as beneficiaries of the sub-pool in question, in accordance with CASS 7.19.6 R (2), according to their respective interests in it;

(3) after all valid claims in (2) have been met, for clients which are insurance undertakings with respect of client money received in the course of insurance distribution activity according to their respective interests in it;
(4) for the payment of the costs properly attributable to the distribution of the client money in (2) if such distribution takes place following the failure of the firm; and

(5) after all valid claims and costs under (2) to (4) have been met, for the firm itself.

7.17.3 R A trustee firm which is subject to the client money rules by virtue of CASS 7.10.1 R (2) receives and holds client money as trustee on the terms in CASS 7.17.2 R, subject to its obligations to hold client money as trustee under the relevant instrument of trust.

7.17.4 G If a trustee firm holds client money, the firm should follow the provisions in CASS 7.10.33 R to CASS 7.10.40 G.

7.17.5 G The statutory trust under CASS 7.17.2 R does not permit a firm, in its capacity as trustee, to use client money to advance credit to the firm's clients, itself, or any other person. For example, if a firm wishes to undertake a transaction for a client in advance of receiving client money from that client to fund that transaction, it should not advance credit to that client or itself using other clients' client money (ie, it should not 'pre-fund' the transaction using other clients' client money).
7.18 Acknowledgment letters

Purpose

7.18.1 The main purposes of an acknowledgement letter are:

(1) to put the bank, exchange, clearing house, intermediate broker, OTC counterparty or other person (as the case may be) on notice of a firm's clients' interests in client money that has been deposited with, or has been allowed to be held by, such person;

(2) to ensure that the client bank account or client transaction account has been opened in the correct form (eg, whether the client bank account is being correctly opened as a general client bank account, a designated client bank account or a designated client fund account), and is distinguished from any account containing money that belongs to the firm; and

(3) to ensure that the bank, exchange, clearing house, intermediate broker, OTC counterparty or other person (as the case may be) understands and agrees that it will not have any recourse or right against money standing to the credit of the client bank account or client transaction account, in respect of any sum owed to such person, or to any other third person, on any other account.

Client bank account acknowledgment letters

7.18.2 (1) For each client bank account, a firm must, in accordance with \textbf{CASS 7.18.6 R}, complete and sign a client bank account acknowledgement letter clearly identifying the client bank account, and send it to the bank with whom the client bank account is, or will be, opened, requesting the bank to acknowledge and agree to the terms of the letter by countersigning it and returning it to the firm.

(2) Subject to \textbf{CASS 7.18.14 R} and \textbf{CASS 7.18.15 R}, a firm must not hold or receive any client money in or into a client bank account unless it has received a duly countersigned client bank account acknowledgement letter from the relevant bank that has not been inappropriately redrafted (see \textbf{CASS 7.18.8 R}) and clearly identifies the client bank account.
Client transaction account acknowledgement letters

7.18.3
(1) This rule does not apply to a firm to which CASS 7.18.4 R (1) applies.

(2) For each client transaction account, a firm must, in accordance with CASS 7.18.6 R, complete and sign a client transaction account acknowledgement letter clearly identifying the client transaction account. That letter must be sent to the person with whom the client transaction account is, or will be, opened, requesting such person to acknowledge and agree to the terms of the letter by countersigning it and returning it to the firm.

(3) Subject to CASS 7.18.14 R and CASS 7.18.15 R, a firm must not allow the relevant person to hold any client money in a client transaction account maintained by that person for the firm, unless the firm has received a duly countersigned client transaction account acknowledgement letter from that person that has not been inappropriately redrafted (see CASS 7.18.8 R) and that clearly identifies the client transaction account.

Authorised central counterparty acknowledgment letters

7.18.4
(1) A firm which places client money at an authorised central counterparty in connection with a regulated clearing arrangement must, in accordance with CASS 7.18.6 R, complete and sign an authorised central counterparty acknowledgement letter clearly identifying the relevant client transaction account. That letter must be sent to the authorised central counterparty with whom the client transaction account is, or will be, opened, requesting such authorised central counterparty to acknowledge receipt of the letter by countersigning it and returning it to the firm.

(2) A firm which has complied with CASS 7.18.4 R (1) may allow the authorised central counterparty to hold client money on the relevant client transaction account, whether or not the authorised central counterparty has countersigned and returned the authorised central counterparty acknowledgement letter it received from the firm.

Acknowledgement letters in general

7.18.5
In drafting acknowledgement letters under CASS 7.18.2 R, CASS 7.18.3 R or CASS 7.18.4 R, a firm is required to use the relevant template in CASS 7 Annex 2 R, CASS 7 Annex 3 R or CASS 7 Annex 4 R, respectively.

7.18.6
When completing an acknowledgement letter under CASS 7.18.2 R (1), CASS 7.18.3 R (1) or CASS 7.18.4 R (1), a firm:

(1) must not amend any of the acknowledgement letter fixed text;

(2) subject to (3), must ensure the acknowledgement letter variable text is removed, included or amended as appropriate; and

(3) must not amend any of the acknowledgement letter variable text in a way that would alter or otherwise change the meaning of the acknowledgement letter fixed text.
CASS 7 : Client money

Section 7.18 : Acknowledgment letters

7.18.7 [G] CASS 7 Annex 5 G contains guidance on using the template acknowledgment letters, including when and how firms should amend the acknowledgement letter variable text that is in square brackets.

7.18.8 [R] (1) If, on countersigning and returning the acknowledgment letter to a firm, the relevant person has also:
   (a) made amendments to any of the acknowledgment letter fixed text; or
   (b) made amendments to any of the acknowledgment letter variable text in a way that would alter or otherwise change the meaning of the acknowledgment letter fixed text;

   the acknowledgment letter will have been inappropriately redrafted for the purposes of CASS 7.18.2 R (2) or CASS 7.18.3 R (3) (as applicable).

(2) For the purposes of CASS 7.18.2 R (2) or CASS 7.18.3 R (3), amendments made to the acknowledgment letter variable text in the acknowledgment letter returned to a firm by the relevant person, will not have the result that the letter has been inappropriately redrafted if those amendments do not affect the meaning of the acknowledgment letter fixed text, have been specifically agreed with the firm and do not cause the acknowledgment letter to be inaccurate.

7.18.9 [R] A firm must use reasonable endeavours to ensure that any individual that has countersigned an acknowledgment letter that has been returned to the firm was authorised to countersign the letter on behalf of the relevant person.

7.18.10 [R] (1) A firm must retain each countersigned client bank account acknowledgment letter and client transaction account acknowledgment letter it receives, from the date of receipt until the expiry of five years from the date on which the last client bank account or client transaction account to which the acknowledgment letter relates is closed.

(2) A firm must retain a copy of each authorised central counterparty acknowledgment letter it sends to an authorised central counterparty under CASS 7.18.4 R (1), from the date it was sent until the expiry of five years from the date the last client transaction account to which the acknowledgment letter relates is closed.

7.18.11 [R] A firm must also retain any other documentation or evidence it believes is necessary to demonstrate that it has complied with each of the applicable requirements in this section (such as any evidence it has obtained to ensure that the individual that has countersigned an acknowledgment letter returned to the firm was authorised to countersign the letter on behalf of the relevant person).
7.18.12 R  
(1) This rule applies to:
   (a) any countersigned client bank account acknowledgement letter or client transaction account acknowledgement letter received by a firm under ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3) respectively; and
   (b) any authorised central counterparty acknowledgement letter sent by a firm under ■ CASS 7.18.4 R (1), whether or not it has been countersigned by the relevant authorised central counterparty and received by the firm.

(2) A firm must, periodically (at least annually, and whenever it is aware that something referred to in an acknowledgement letter has changed) review each of its acknowledgement letters to ensure that they all remain accurate.

(3) Whenever a firm finds an inaccuracy in an acknowledgement letter, it must promptly draw up a replacement acknowledgement letter under ■ CASS 7.18.2 R or ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, as applicable, and, if it is an acknowledgement letter required to be sent under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R, ensure that the new acknowledgement letter is duly countersigned and returned by the relevant person.

7.18.13 G  
Under ■ CASS 7.18.12 R, a firm should draw up and send out a replacement acknowledgement letter whenever:

(1) there has been a change in any of the parties’ names or addresses as set out in the letter; or

(2) the firm becomes aware of an error or misspelling in the drafting of the letter.

7.18.14 R  
If a firm’s client bank account or client transaction account is transferred to another person, the firm must promptly draw up a new acknowledgement letter under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, as applicable, and, if it is an acknowledgement letter required to be sent under ■ CASS 7.18.2 R or ■ CASS 7.18.3 R, ensure that the new acknowledgement letter is duly countersigned and returned by the relevant person within 20 business days of the firm sending it to that person.

7.18.15 R  
If a firm opens a client bank account after a primary pooling event, the firm must:

(1) promptly draw up and send out a new acknowledgement letter under ■ CASS 7.18.2 R;

(2) not hold or receive any client money in or into the client bank account unless it has sent the acknowledgement letter to the relevant person; and

(3) if the firm has not received a duly countersigned acknowledgement letter that has not been inappropriately redrafted (see ■ CASS 7.18.8 R) within 20 business days of the firm sending the acknowledgement letter, withdraw all money standing to the credit of the account and
deposit it in a client bank account with another bank as soon as possible.
7.19 Clearing member client money sub-pools

(1) Under CASS 7.17.2R(2), a firm acts as trustee for all client money received or held by it for the benefit of the clients for whom that client money is held, according to their respective interests in it.

(2) A firm that is also a clearing member of an authorised central counterparty may wish to segregate client money specifically for the benefit of a group of clients who have chosen to clear positions through a net margined omnibus client account maintained by the firm with that authorised central counterparty, where that segregation might facilitate the porting of client positions recorded in that net margined omnibus client account. To segregate client money (that would otherwise be held in the general pool) for a specific group of clients clearing positions through a particular net margined omnibus client account, a clearing member firm may, in accordance with these rules, create a sub-pool of client money.

(3) Upon the occurrence of a primary pooling event, the client money for:

(a) the general pool, should be distributed in accordance with CASS 7A to the clients for whom the firm receives or holds client money in that general pool; and

(b) a sub-pool, should either be:

(i) transferred to facilitate porting; or

(ii) distributed to the clients who are beneficiaries of that sub-pool, according to their respective interests under CASS 7A.2.4R (2)(a).

(4) All client money is received or held by the firm as trustee for the clients of the firm. However, a clearing member of an authorised central counterparty who clears client positions through a net margined omnibus client account may organise its affairs (with the consent of the relevant clients) in such a way that those clients need not share in the general pool of client money following a primary pooling event, save to the extent that such clients otherwise have an interest in the general pool.

7.19.2 Where a firm creates a sub-pool for a particular net margined omnibus client account, it must not clear positions through that omnibus client account for clients who are not beneficiaries of that sub-pool.
Internal controls

7.19.3 R A firm wishing to establish a sub-pool must establish and maintain adequate internal controls necessary to comply with the firm’s obligations under ■ CASS 7 for the general pool and each sub-pool that it may establish.

Records

7.19.4 R Where a firm establishes one or more sub-pools, ■ CASS 7.15 (Records, accounts and reconciliations) shall be read as applying separately to the firm’s general pool and each sub-pool.

7.19.5 G A firm that establishes one or more sub-pools must establish and maintain adequate internal controls and records in accordance with ■ CASS 7.15 (Records, accounts and reconciliations) to conduct internal and external reconciliations for each sub-pool and the general pool individually.

7.19.6 R (1) The records maintained for a sub-pool under ■ CASS 7.19.4 R must identify all the client beneficiaries of that sub-pool.

(2) The beneficiaries of each sub-pool are those clients:

(a) from whom the firm has received a signed sub-pool disclosure document in accordance with ■ CASS 7.19.11 R;

(b) for whom the firm maintains, previously maintained or is in the process of establishing a margined transaction(s) in the relevant net margined omnibus client account at the authorised central counterparty; and

(c) to whom any client equity balance or other client money is required to be segregated for the client by the firm in respect of the margined transactions under (2)(b) from that sub-pool.

7.19.7 R (1) For each sub-pool that the firm establishes, it must maintain a record of:

(a) the name of the sub-pool;

(b) the particular net margined omnibus client account at an authorised central counterparty to which the sub-pool relates;

(c) each client bank account and each client transaction account (other than the net margined omnibus client account) maintained for the sub-pool, including the unique identifying reference or descriptor under ■ CASS 7.19.13 R (2); and

(d) the applicable sub-pool disclosure document for the sub-pool.

7.19.8 R The firm must maintain an up-to-date list of all the sub-pools it has created.

Sub-pool disclosure document

7.19.9 R (1) A firm wishing to establish a sub-pool must prepare a sub-pool disclosure document for each sub-pool.

(2) The sub-pool disclosure document for each sub-pool must:
(a) identify the sub-pool by name, as stated in its records under ■ CASS 7.19.7 R, the net margined omnibus client account and the authorised central counterparty to which the sub-pool disclosure document relates;

(b) contain a statement that the client consents to the firm receiving and holding the client’s client money in the sub-pool;

(c) contain a statement that, in the event of the failure of the firm, the firm is directed by the client to use any client money held by the firm in the sub-pool to facilitate the porting of the positions recorded in that net margined omnibus client account; and

(d) a statement reminding the client that, in the event of the failure of the firm, if porting is not effected or if porting is effected but any money in the sub-pool is not used to facilitate porting, the client beneficiaries of the sub-pool will be entitled to a distribution of any client money held for that sub-pool in line with ■ CASS 7A. However, the client beneficiaries will not have a claim on any other pool of client money, except to the extent that the client is a beneficiary of another pool.

In preparing a sub-pool disclosure document under ■ CASS 7.19.9 R (1), a firm may use the template in ■ CASS 7 Annex 6.

(1) Before receiving or holding client money for a client for a sub-pool, a firm must:

(a) provide to the client a copy of the sub-pool disclosure document applicable to that sub-pool; and

(b) obtain a signed copy of that sub-pool disclosure document from the client.

(2) A firm must provide the beneficiary of a sub-pool with a copy of its signed sub-pool disclosure document applicable to that sub-pool upon the beneficiary’s request.

Segregation and operation of sub-pools

Where a firm establishes one or more sub-pools, ■ CASS 7.13 (Segregation of client money) is to be read as applying separately to the firm’s general pool and each sub-pool.

(1) A firm must not hold client money for a sub-pool in a client bank account or a client transaction account used for holding client money for any other sub-pool or the general pool.

(2) A firm that establishes a sub-pool must ensure that the name of each client bank account and each client transaction account (other than the net margined omnibus client account) maintained for that sub-pool includes a unique identifying reference or descriptor that enables the account to be identified with that sub-pool.

(3) Where a client of the firm is a beneficiary of the general pool and wishes to become a beneficiary of a sub-pool, the client in question shall become a beneficiary of the relevant sub-pool when:
(a) the firm has obtained the signed sub-pool disclosure document from that client in accordance with CASS 7.19.11 R (1); and

(b) the firm has either:

(i) transferred the relevant amount of client money for that client from a client bank account maintained for the general pool to a client bank account maintained for the relevant sub-pool; or

(ii) if the firm is not making a transfer of client money from the general pool, when it has received that client's money in a client bank account maintained for the relevant sub-pool.

(4) Where a client of the firm is a beneficiary of the general pool and wishes to become a beneficiary of a sub-pool, the firm must ensure that it does not transfer client money from a client bank account maintained for the general pool to a client bank account maintained for a sub-pool in accordance with CASS 7.19.13 R (3)(b)(i), unless the amount of client money held for the general pool is sufficient, immediately after that transfer, to satisfy the firm's client money obligations to the remaining beneficiaries of the general pool.

(5) A client of the firm who is a beneficiary of a sub-pool ceases to be a beneficiary of that sub-pool when:

(a) the firm has settled the amount owing to that client for all of the margined transactions cleared through the related net margined omnibus client account and no longer holds any client money for that client in that sub-pool, and so CASS 7.19.6 R (2)(b) and CASS 7.19.6 R (2)(c) no longer apply for that client; or

(b) the firm has complied with (i) or (ii), and in either case (iii):

(i) the firm has received a written instruction from the client stating that the client no longer wishes to have its positions cleared through the net margined omnibus client account or its client money held in that sub-pool, or the firm has notified the client under CASS 7.19.18 R that it is making a material change to a sub-pool; or

(ii) the firm has closed or moved that client's positions to an account other than the net margined omnibus client account referable to that sub-pool; and

(iii) the firm has either transferred the relevant amount of client money for that client from a client bank account maintained for the relevant sub-pool to a client bank account maintained by the firm for the general pool (or, if applicable, another sub-pool), or transferred the amount owing to that client for all of the margined transactions cleared through the related net margined omnibus client account and no longer holds any client money for that client in that sub-pool.

(6) In relation to the transfer of client money under CASS 7.19.13 R (5)(b)(iii), a firm must ensure that it does not transfer client money from a client bank account maintained for a sub-pool, unless the amount of client money held for the sub-pool is sufficient, immediately after that transfer, to satisfy the firm's client money obligations to the remaining beneficiaries of that sub-pool.
7.19.14 R Save to the extent permitted under CASS 7.13.70 G a firm that receives client money to be credited in part to the general pool or one sub-pool and in part to another sub-pool must:

(1) take the necessary steps to ensure that the full sum is paid directly into a client bank account maintained for the general pool; and

(2) promptly, and in any event no later than one business day after receipt, pay the money that is not client money for the general pool out of that client bank account and into a client bank account maintained for the appropriate sub-pool.

7.19.15 G (1) If a primary pooling event occurs before client money is transferred from a client bank account maintained for the general pool to a client bank account maintained for the appropriate sub-pool in accordance with CASS 7.19.14 R (2), the amount in question will not form part of that sub-pool, including for the purposes of CASS 7A.2.4R (1).

(2) If a primary pooling event occurs before client money is transferred from a client bank account maintained for a sub-pool to a client bank account maintained for the general pool or another sub-pool in accordance with CASS 7.19.13 R (5), the amount in question will not form part of the general pool or that other sub-pool, including for the purposes of CASS 7A.2.4R (1), but will remain part of the original sub-pool.

7.19.16 R A client for whom a firm receives or holds client money for a sub-pool has no claim to or interest in client money received or held for the general pool or any other sub-pool unless:

(1) that client is a beneficiary of that other sub-pool; or

(2) the firm receives or holds client money for that client for other business which does not relate to any sub-pool (and thus the client is a beneficiary of the firm’s general pool).

7.19.17 R A client for whom a firm receives or holds client money in more than one pool as described in CASS 7.19.16 R (1) and/or CASS 7.19.16 R (2) has an interest in a distribution from each such pool, and each interest is separate and distinct.

Material changes to sub-pools

7.19.18 R Before making a material change to a sub-pool, a firm must:

(1) notify the then current beneficiaries of that sub-pool in writing, not less than two months before the date on which the firm intends the change to take effect; and

(2) include in the notification an explanation of the consequences for the beneficiaries of the proposed change and the options available to them, such as the option of a beneficiary of the affected sub-pool to cease to be a beneficiary of that sub-pool and to become a...
7.19.19  
A firm should keep in mind its obligations under CASS 7.19.11 R (1)(b) (before receiving or holding client money for a client in a sub-pool, a firm must obtain a signed copy of the sub-pool disclosure document from the client) when making a material change to a sub-pool. A firm is also reminded of the conditions under CASS 7.19.13 R (5)(b) (when a client of the firm who is a beneficiary of a sub-pool ceases to be a beneficiary of that sub-pool) if a material change proposed to a sub-pool results in a client ceasing to be a beneficiary of that sub-pool.

7.19.20  
The FCA would normally consider the dissolution of a sub-pool, such that the firm no longer operates the sub-pool or no longer uses the relevant net margined omnibus client account or transfers the business to another authorised central counterparty, to be examples of material changes to a sub-pool.

7.19.21  
Before materially changing a sub-pool, a firm must provide a copy of the notice provided to clients under CASS 7.19.18 R to the FCA not less than two months before the date on which the firm intends the change to take place.

Notifications

7.19.22  
A firm that wishes to establish a sub-pool of client money must notify the FCA in writing not less than two months before the date on which the firm intends to receive or hold client money for that sub-pool.

7.19.23  
Upon request, a firm must deliver to the FCA a copy of the sub-pool disclosure document for any sub-pool established by the firm.

7.19.24  
A firm must inform the FCA in writing, without delay, if it has not complied, or is unable to comply with the requirements in CASS 7.19.11 R or the requirements in CASS 7.19.18 R.

Record-keeping

7.19.25  
The records maintained under this section, including the sub-pool disclosure documents, are a record of the firm that must be kept in a durable medium for at least five years following the date on which client money was last held by the firm for a sub-pool to which those records or the sub-pool disclosure document applied.
Client bank account acknowledgment letter template

[letterhead of firm subject to ■ CASS 7.18.2 R, including full name and address of firm]
[name and address of bank]
[date]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following [current/deposit account[s]] [and/or] [money market deposit[s]] which [name of CASS firm], regulated by the Financial Conduct Authority (Firm Reference Number [FRN]), ("us", "we" or "our") [has opened or will open] [and/or] [has deposited or will deposit] with [name of bank] ("you" or "your"): 

[insert the account title[s], the account unique identifier[s] (for example, as relevant, sort code and account number, deposit number or reference code) and (if applicable) any abbreviated name of the account[s] as reflected in the bank's systems]

([collectively,] the "Client Bank Account[s]").

In relation to [each of] the Client Bank Account[s] identified above you acknowledge that we have notified you that:

(a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;

(b) we have opened, or will open, the Client Bank Account for the purpose of depositing money with you on behalf of our clients; and

(c) we hold all money standing to the credit of the Client Bank Account in our capacity as trustee under the laws applicable to us.

In relation to [each of] the Client Bank Account[s] above you agree that:

(d) you do not have any recourse or right against money in the Client Bank Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Bank Account with any other account and any right of set-off or counterclaim against money in the Client Bank Account;

(e) you will title, or have titled, the Client Bank Account as stated above and that such title is different to the title of any other account containing money that belongs to us or to any third party; and

(f) you are required to release on demand all money standing to the credit of the Client Bank Account upon proper notice and instruction from us or a liquidator, receiver, administrator, or trustee (or similar person) appointed for us in bankruptcy (or similar procedure), in any relevant jurisdiction, except for:

(1) any properly incurred charges or liabilities owed to you on, and arising from the operation of, the Client Bank Account; and
(2) until the fixed term expires, any amounts held for the time being under a fixed term deposit arrangement which cannot be terminated before the expiry of the fixed term, provided that you have a contractual right to retain such money under (1) or (2) and that this right is notwithstanding paragraphs (a) to (c) above and without breach of your agreement to paragraph (d) above.

We acknowledge that:

(g) you are not responsible for ensuring compliance by us with our own obligations, including as trustee, in respect of the Client Bank Account[s].

You and we agree that:

(h) the terms of this letter shall remain binding upon the parties, their successors and assigns, and, for the avoidance of doubt, regardless of any change in name of any party;

(i) this letter supersedes and replaces any previous agreement between the parties in connection with the Client Bank Account[s], to the extent that such previous agreement is inconsistent with this letter;

(j) in the event of any conflict between this letter and any other agreement between the parties in connection with the Client Bank Account[s], this letter agreement shall prevail;

(k) no variation to the terms of this letter shall be effective unless it is in writing, signed by the parties and permitted under the rules of the Financial Conduct Authority;

(l) this letter shall be governed by the laws of [insert appropriate jurisdiction] [firms may optionally use this space to insert additional wording to record an intention to exclude any rules of private international law that could lead to the application of the substantive law of another jurisdiction]; and

(m) the courts of [insert same jurisdiction as previous] shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible. We remind you that, pursuant to the rules of the Financial Conduct Authority, we are not allowed to use the Client Bank Account[s] to deposit any money belonging to our clients with you until you have acknowledged and agreed to the terms of this letter.

For and on behalf of [name of CASS firm]

x___________________________

Authorised Signatory

[Signed by [name of third party administrator] on behalf of [CASS firm]]

Print Name:
Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [name of bank]

x___________________________

Authorised Signatory

Print Name:
Title:
Contact Information: [insert signatory's phone number and email address]
Date:
Client transaction account acknowledgment letter template

[letterhead of firm subject to CASS 7.18.3 R, including full name and address of firm]
[name and address of counterparty]
[date]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following transaction account[s] which [name of CASS firm], regulated by the Financial Conduct Authority (Firm Reference Number [FRN]), (“us”, “we” or “our”) has opened or will open with [name of counterparty] (“you” or “your”):

[insert the account title[s], the account unique identifier[s] (for example, as relevant, account number, reference code or pool ID) and (if applicable) any abbreviated name of the account[s] as reflected in the counterparty’s systems]

([collectively,] the “Client Transaction Account[s]”).

In relation to [each of] the Client Transaction Account[s] identified above you acknowledge that we have notified you that:

(a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;

(b) we have opened, or will open, the Client Transaction Account for the purpose of placing money with you on behalf of our clients in connection with carrying out one or more transactions with or through you; and

(c) you are instructed to promptly credit to this Client Transaction Account any money you receive in respect of any transaction that we have notified to you as being carried out on behalf of our clients.

In relation to [each of] the Client Transaction Account[s] identified above you agree that:

(d) all money standing to the credit of the Client Transaction Account is payable to us in our capacity as trustee under the laws applicable to us[, except where, in accordance with your default management procedures in respect of a default by us, you transfer money credited to the Client Transaction Account to anyone other than us in accordance with the “EMIR Indirect Clearing Default Management Obligations” (as defined at the time of such default in the Financial Conduct Authority’s Handbook of Rules and Guidance)) [and/or] [ the “MiFIR Indirect Clearing Default Management Obligations” (as defined at the time of such default in the Financial Conduct Authority’s Handbook of Rules and Guidance)];

(e) you do not have any recourse or right against money credited to the Client Transaction Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Transaction Account with any other account and any right of set-off or counterclaim against money in the Client Transaction Account; and
(f) you will title, or have titled, the Client Transaction Account as stated above and that such title is different to the title of any other account containing money that is payable to us in a capacity other than as trustee or that is payable to any third party.

You and we agree that:

(g) the terms of this letter shall remain binding upon the parties, their successors and assigns, and, for the avoidance of doubt, regardless of any change in name of any party;

(h) this letter supersedes and replaces any previous agreement between the parties in connection with the Client Transaction Account[s], to the extent that such previous agreement is inconsistent with this letter;

(i) in the event of any conflict between this letter and any other agreement between the parties in connection with the Client Transaction Account[s], this letter agreement shall prevail;

(j) no variation to the terms of this letter shall be effective unless it is in writing, signed by the parties and permitted under the rules of the Financial Conduct Authority;

(k) this letter shall be governed by the laws of [insert appropriate jurisdiction] [firms may optionally use this space to insert additional wording to record an intention to exclude any rules of private international law that could lead to the application of the substantive law of another jurisdiction]; and

(l) the courts of [insert same jurisdiction as previous] shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible. We remind you that, pursuant to the rules of the Financial Conduct Authority, we are not allowed to permit you to hold any money belonging to our clients on the Client Transaction Account[s] until you have acknowledged and agreed to the terms of this letter.

For and on behalf of [name of CASS firm]

x___________________________

Authorised Signatory

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [name of counterparty]

x___________________________

Authorised Signatory

Print Name:

Title:

Contact Information: [insert signatory's phone number and email address]

Date:
Authorised central counterparty acknowledgment letter template

[letterhead of firm subject to ■ CASS 7.18.4 R, including full name and address of authorised central counterparty]

[name and address of counterparty]

[date]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following transaction account[s] which [name of CASS firm], regulated by the Financial Conduct Authority (Firm Reference Number [FRN]), ("us", "we" or "our") has opened or will open with [name of authorised Central counterparty] ("you" or "your"):

[insert the account title[s], the account unique identifier[s] (for example, as relevant, account number, reference code or pool ID) and (if applicable) any abbreviated name of the account[s] as reflected in the authorised central counterparty's systems]

((collectively,) the "Client Transaction Account[s]").

In relation to [each of] the Client Transaction Account[s] identified above we are writing to put you on notice that:

(a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;

(b) we have opened, or will open, the Client Transaction Account for the purpose of placing money with you on behalf of our clients in connection with carrying out one or more transactions with or through you;

(c) you are instructed to promptly credit to this Client Transaction Account any money you receive in respect of any transaction that we have notified to you as being carried out on behalf of our clients;

(d) all money standing to the credit of the Client Transaction Account is payable to us in our capacity as trustee under the laws applicable to us, except where, as a part of your default management process in respect of a default by us, you transfer money credited to the Client Transaction Account to anyone other than us in accordance with article 48 of Regulation (EU) No 648/2012 of 4 July 2012;

(e) you do not have any recourse or right against money credited to the Client Transaction Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Transaction Account with any other account and any right of set-off or counterclaim against money in the Client Transaction Account; and

(f) we understand the title of the Client Transaction Account is, or will be, as stated above and that such title is different to the title of any other account containing money that is payable to us in a capacity other than as trustee or is payable to any third party.
[Please confirm your receipt of this letter by signing and returning the enclosed copy of this letter as soon as possible.]

For and on behalf of [name of CASS firm]

x___________________________

Authorised Signatory
Print Name:
Title:

[RECEIPT CONFIRMED:]
For and on behalf of [name of counterparty]

x___________________________

Authorised Signatory
Print Name:
Title:
Contact Information: [insert signatory's phone number and email address]
Date:]

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CASS 7 Annex 4/2
www.handbook.fca.org.uk

Release 36  May 2024
Guidance notes for acknowledgement letters (CASS 7.18)

Introduction

1 This annex contains guidance on the use of the templates for acknowledgement letters in ■ CASS 7 Annex 2, ■ CASS 7 Annex 3 and ■ CASS 7 Annex 4.

2 Unless stated otherwise, a reference to ‘counterparty’ in this annex is:
   (a) in the context of a client bank account acknowledgement letter (and ■ CASS 7 Annex 2), to the relevant bank;
   (b) in the context of a client transaction account acknowledgement letter (and ■ CASS 7 Annex 3), to the relevant exchange, clearing house, intermediate broker, OTC counterparty or other person (as the case may be); and
   (c) in the context of an authorised central counterparty acknowledgement letter (and ■ CASS 7 Annex 4), to the relevant authorised central counterparty.

General

3 Under ■ CASS 7.18.2 R (2) and ■ CASS 7.18.3 R (3), firms are required to have in place a duly signed and countersigned acknowledgement letter for a client bank account or client transaction account (respectively) before they are allowed to hold or receive client money in or into the client bank account, or allow the relevant person to hold any client money on the client transaction account (respectively).

4 However, a firm may place client money at an authorised central counterparty in connection with a regulated clearing arrangement if it has provided the relevant authorised central counterparty with a signed and completed authorised central counterparty acknowledgement letter (see ■ CASS 7.8.3 R).

5 For each client bank account or client transaction account, a firm is required to complete, sign and send to the counterparty an acknowledgement letter identifying that account and in the form set out in ■ CASS 7 Annex 2 (Client bank account acknowledgement letter template), ■ CASS 7 Annex 3 (Client transaction account acknowledgement letter template) or ■ CASS 7 Annex 4 (Authorised central counterparty acknowledgement letter), as appropriate.

6 When completing an acknowledgement letter using the appropriate template, a firm is reminded that it must not amend any of the text which is not in square brackets (acknowledgement letter fixed text). A firm should also not amend the non-italicised text that is in square brackets. It may remove or include square bracketed text from the letter, or replace bracketed and italicised text with the necessary wording, in either case as appropriate. The notes below give further guidance on this.

Clear identification of relevant accounts

7 A firm is reminded that for each client bank account or client transaction account it needs to have in place an acknowledgement letter. Accordingly, it is important that it is clear to which account or accounts each acknowledgement letter relates. As a result, the templates in ■ CASS 7 Annex 2, ■ CASS 7 Annex 3 and ■ CASS 7 Annex 4 require that the acknowledgement letter include the full title and at least one unique identifier, such as a sort code and account
number, deposit number, reference code or pool ID, for each client bank account or client transaction account to which the letter relates.

8 The title and unique identifiers included in an acknowledgement letter for a client bank account or client transaction account should be the same as those reflected in both the records of the firm and the relevant counterparty, as appropriate, for that account. Where a counterparty’s systems are not able to reflect the full title of an account, that title may be abbreviated to accommodate that system, provided that:

(a) the account may continue to be appropriately identified in accordance with the requirements of CASS 7 (eg, ‘designated’ may be shortened to ‘des’, ‘designated fund’ may be shortened to ‘des fnd’, ‘segregated’ may be shortened to ‘seg’, ‘account’ may be shortened to ‘acct’, etc); and

(b) when completing an acknowledgement letter, such letter must include both the long and short versions of the account title.

9 A firm should ensure that all relevant account information is contained in the space provided in the body of the acknowledgement letter. Nothing should be appended to an acknowledgement letter.

10 In the space provided in the template letters for setting out the account title and unique identifiers for each relevant account/deposit, a firm may include the required information in the format of the following table:

<table>
<thead>
<tr>
<th>Full account title</th>
<th>Unique identifier</th>
<th>Title reflected in [name of bank] systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Investment Firm Client Bank Account]</td>
<td>[00-00-00 12345678]</td>
<td>[INV FIRM CLIENT A/C]</td>
</tr>
</tbody>
</table>

11 Where an acknowledgement letter is intended to cover a range of client bank accounts or client transaction accounts, some of which may not exist as at the date the acknowledgement letter is countersigned by the relevant person (or, in the case of an authorised central counterparty acknowledgement letter, the date it is sent by the firm to the relevant authorised central counterparty), a firm should set out in the space provided in the body of the acknowledgement letter that it is intended to apply to all present and future accounts which:

(a) are titled in a specified way (eg, with the word ‘client’ in their title); and (b) which possess a common unique identifier or which may be clearly identified by a range of unique identifiers (eg, all accounts numbered between XXXX1111 and ZZZZ9999). For example, in the space provided in the template letter in CASS 7 Annex 2 which allows a firm to include the account title and a unique identifier for each relevant account, a firm should include a statement to the following effect:

Any account open at present or to be opened in the future which contains the term ['client'] [insert appropriate abbreviation of the term ‘client’ as agreed and to be reflected in the Bank's systems] in its title and which may be identified with [the following [insert common unique identifier]] [an account number from and including [XXXX1111] to and including [ZZZZ9999]] [clearly identify range of unique identifiers].

Signature and countersignatures

12 A firm should ensure that each acknowledgement letter is signed and countersigned by all relevant parties and individuals (including where a firm or its counterparty may require more than one signatory).

13 An acknowledgement letter that is signed or countersigned electronically should not, for that reason alone, result in a breach of the rules in CASS 7.19. However, where electronic signatures are used, a firm should consider whether, under CASS 7.13.8 R and taking into account the
governing law and choice of competent jurisdiction, it needs to ensure that the electronic signature and the certification by any person of such signature would be admissible as evidence in any legal proceedings in the relevant jurisdiction in relation to any question as to the authenticity or integrity of the letter.

Completing an acknowledgment letter

14 A firm should use at least the same level of care and diligence when completing an acknowledgment letter as it would in managing its own commercial agreements.

15 A firm should ensure that each acknowledgment letter is legible (eg, any handwritten details should be easy to read), produced on the firm’s own letter-headed paper, dated and addressed to the correct legal entity (eg, where the counterparty belongs to a group of companies).

16 A firm should also ensure each acknowledgment letter includes all the required information (such as account names and numbers, the parties’ full names, addresses and contact information, and each signatory’s printed name and title).

17 A firm should similarly ensure that no square brackets remain in the text of each acknowledgment letter (ie, after having removed or included square bracketed text, as appropriate, or having replaced square bracketed and italicised text with the required information as indicated in the templates in ■ CASS 7 Annex 2, ■ CASS 7 Annex 3 and ■ CASS 7 Annex 4) and that each page of the acknowledgment letter is numbered.

18 A firm should complete an acknowledgment letter so that no part of the letter can be easily altered (eg, the letter should be signed in ink rather than pencil).

19 In respect of a client bank account acknowledgment letter’s governing law and choice of competent jurisdiction (see paragraphs (l) and (m) of the template in ■ CASS 7 Annex 2R) or a client transaction account acknowledgment letter’s governing law and choice of competent jurisdiction (see paragraphs (k) and (l) of the template in ■ CASS 7 Annex 3 R), the letter should reflect a firm’s agreement with its counterparty that the laws of a particular jurisdiction will govern the acknowledgment letter and that the courts of that same jurisdiction will have non-exclusive jurisdiction to settle any disputes arising out of, or in connection with, the acknowledgment letter, its subject matter or formation.

20 If a firm does not, in any client bank account acknowledgment letter or client transaction account acknowledgment letter, utilise the governing law and choice of competent jurisdiction that is the same as either or both:

(a) the law and the jurisdiction under which either the firm or the relevant counterparty are organised; and

(b) that specified in the underlying agreement/s (eg, banking, custody or clearing services agreement) with the relevant counterparty;

then the firm should consider whether it is at risk of breaching either ■ CASS 7.18.6 R (3) or, in the case of a client bank account acknowledgment letter, ■ CASS 7.13.8 R.

21 The FCA recognises that some firms and their counterparties may wish to clarify through additional words in the governing law provision (see paragraph (l) of the template in ■ CASS 7 Annex 2 and paragraph (k) of the template in ■ CASS 7 Annex 3) that they are agreeing that the substantive law of the governing jurisdiction shall apply and that their intention is that a court should not decide to apply the substantive provisions of some other law instead of the parties’ chosen governing law (a ‘renvoi’). Where this is the case firms are permitted to insert additional text that seeks to provide increased legal certainty in the space provided. There is no restriction as to what additional words may be used (eg, additional words such as “without regard to the principles of choice of law” may be appropriate in the circumstances), but a firm should at all times have regard to the need to comply with ■ CASS 7.18.6 R (3). However, for the
majority of firms the FCA does not expect additional wording for the governing law provision to be necessary. This is likely to be the case where only a court that is subject to 'Rome I' (Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008) is likely to accept jurisdiction over a dispute arising out of or in connection with the relevant acknowledgement letter.

Authorised signatories

22 A firm is required, under ■ CASS 7.18.9 R, to use reasonable endeavours to ensure that any individual that has countersigned an acknowledgement letter returned to the firm was authorised to countersign the letter on behalf of the relevant counterparty.

23 If an individual that has countersigned an acknowledgement letter does not provide the firm with sufficient evidence of his/her authority to do so then the firm is expected to make appropriate enquires to satisfy itself of that individual's authority.

24 Evidence of an individual's authority to countersign an acknowledgement letter may include a copy of the counterparty's list of authorised signatories, a duly executed power of attorney, use of a company seal or bank stamp, and/or material verifying the title or position of the individual countersigning the acknowledgement letter.

25 A firm should ensure it obtains at least the same level of assurance over the authority of an individual to countersign the acknowledgement letter as the firm would seek when managing its own commercial arrangements.

Third party administrators

26 If a firm uses a third party administrator ('TPA') to carry out the administrative tasks of drafting, sending and processing a client bank account acknowledgement letter, the text "[Signed by [Name of Third Party Administrator] on behalf of [CASS Firm]]" should be inserted to confirm that the acknowledgement letter was signed by the TPA on behalf of the firm.

27 In these circumstances, the firm should first provide the TPA with the requisite authority (such as a power of attorney) before the TPA will be able to sign the client bank account acknowledgement letter on the firm's behalf. A firm should also ensure that the acknowledgement letter continues to be drafted on letter-headed paper belonging to the firm.

Designated client bank accounts and designated client fund accounts

28 A firm must ensure that each of its client bank accounts follows the naming conventions prescribed in the Glossary. This includes ensuring that (i) all client bank accounts include the term 'client' in their title; and (ii) all designated client bank accounts or designated client fund accounts include, as appropriate, the terms 'designated' or 'designated fund' in their title, or in each case an appropriate abbreviation in circumstances where this is permitted by the Glossary definition.

29 All references to the term "Client Bank Account[s]" in a client bank account acknowledgement letter should also be made consistently in either the singular or plural, as appropriate.

Indirect clearing arrangements

30 For use with client transaction accounts maintained with a clearing member who facilitates indirect clearing through a regulated clearing arrangement, the square-bracketed text in paragraph (d) of the template letter in ■ CASS 7 Annex 3 should remain in the letter, and, depending on the instruments being indirectly cleared using those client transaction accounts, should include the reference to either or both the EMIR indirect clearing default management obligations and the MiFIR indirect clearing default management obligations.
31 All references to the term "Client Transaction Account[s]" in a client transaction account acknowledgement letter should be made consistently in either the singular or plural, as appropriate.

Direct clearing arrangements

32 For use with client transaction accounts maintained with an authorised central counterparty in respect of a regulated clearing arrangement, a firm may identify whether each account is an omnibus client account or an individual client account in the body of the template letter in CASS 7 Annex 4. For example, if using the table mentioned in paragraph 10 above, a firm may include an additional column in which for each account it includes the reference "Individual Client Account" or "Omnibus Client Account", as appropriate.

33 All references to the term "Client Transaction Account[s]" in an authorised central counterparty acknowledgement letter should be made consistently in either the singular or plural, as appropriate.

Money market deposits

34 The client bank account acknowledgement letter in CASS 7 Annex 2 may be used with money market deposits identified as being client money.

35 A firm should ensure that client money placed in a money market deposit is clearly identified as client money (see CASS 7.13.15 G ).

36 Before a firm places client money in a money market deposit, it must have a client bank account acknowledgement letter for that deposit. If the unique identifier which will be associated with a money market deposit consisting of client money is unable to be included in a client bank account acknowledgement letter before it is duly countersigned and returned to the firm, a firm should set out in the body of the letter: (a) the title and other account information for the client bank account from which the deposits will be placed with the bank; and (b) how the firm will notify the bank that a money market deposit placed with it consists of client money (eg, by the inclusion of the words 'Client Money Deposit'). For example, in the space provided in the template letter in CASS 7 Annex 2 which allows a firm to include the account title and a unique identifier for each relevant account/deposit, a firm should include a statement to the following effect:

[[CASS Firm] money market deposits placed from [title of relevant [client bank account], [sort code], [account number]] and identified with the reference '[Client Money Deposit]' as being client money]]

37 A firm which operates the alternative approach to client money segregation (see CASS 7.13.62 R ) might not make deposits of client money in a money market deposit from another client bank account. In these circumstances, the firm need only include in the body of the letter how the firm will notify the bank that a money market deposit placed with it consists of client money. For example, the relevant space in the template letter in CASS 7 Annex 2 may set out that:

[[CASS firm] money market deposits identified with the reference '[Client Money Deposit]' as being client money]
Sub-pool disclosure document

[letterhead of firm, including full name and address of firm, firm reference number]
[addressee - client participating in specified sub-pool]
[date]

Sub-pool disclosure document (under the rules of the Financial Conduct Authority)

1. The sub-pool to which this sub-pool disclosure document relates is designated in the firm's records as:
   
   [insert name of sub-pool in firm's records]
   
   (for the purposes of this document, the "sub-pool")

2. The net margined omnibus client account relating to the sub-pool is held at [insert name of
   authorised CCP] and is designated as:
   
   [insert the account title, the account unique identifier and (if applicable) any abbreviated
   name of the account as reflected in the authorised CCP's systems]
   
   (for the purposes of this document, the "omnibus client account").

3. The purpose of this letter is to:
   
   (a) provide you with information relating to the sub-pool [operated or to be operated] by
   [insert name of CASS firm] in relation to the omnibus client account held by the firm at
   [insert name of authorised CCP];

   (b) obtain your consent to holding your money in the sub-pool; and

   (c) confirm your direction that upon the failure of [insert name of CASS firm], we are to
   use any client money held by the firm in the sub-pool to facilitate porting.

4. [name of CASS firm] will hold any client money that we receive from you in relation to the cleared transactions that we maintain for you in the omnibus client account in client bank accounts that we open in relation to the sub-pool, or we will allow the CCP to hold this client money in the omnibus client account.

5. In the event of the failure of the [insert name of CASS firm], you hereby direct the [insert name of CASS firm] to use any client money held by the [insert name of CASS firm] in the sub-pool to facilitate the porting of the positions recorded in the omnibus client account.

6. In the event of the failure of [insert name of CASS firm], if porting is not effected, or if porting is effected but any money in the sub-pool is not used to facilitate porting, you and the other beneficiaries of the sub-pool will be entitled to a distribution from any client money held in respect of this sub-pool, in accordance with the client money distribution rules in CASS 7A. Save to the extent that [insert name of CASS firm] holds any other client money for you in the context of any other business or sub-pool, you will not be entitled to a distribution of any other client money held by [insert name of CASS firm].

7. You hereby consent to the firm receiving and holding your money as client money as part of [sub-pool specified above or specify name of sub-pool]. Until you sign and return this letter the
firm will not hold money for you in the sub-pool and you will not be a beneficiary of the sub-pool.

8. This letter shall be governed by the laws of [England and Wales/Scotland/Northern Ireland / insert appropriate jurisdiction].

If you are in agreement with the foregoing terms, please sign and return the enclosed copy of this letter as soon as possible. You should retain a copy of this letter for your records.

[insert name of CASS firm]

x___________________________

Authorised Signatory
Print Name:
Title:

ACKNOWLEDGED AND AGREED:
[insert name of client]

x___________________________

Authorised Signatory
Print Name:
Title:

Contact Information: [insert signatory's phone number and email address]
Date:
Chapter 7A

Client money distribution and transfer
7A.1 Application and purpose

Application

7A.1.1 Subject to CASS 7A.1.1A R, this chapter (the client money distribution and transfer rules) applies to a firm that holds client money which is subject to the client money rules when a pooling event occurs.

7A.1.1A The client money distribution and transfer rules do not apply to any client money held by a trustee firm under CASS 7.10.34R to CASS 7.10.40G.

7A.1.1B As a result of CASS 7A.1.1A R, the client money distribution and transfer rules relating to primary pooling events and secondary pooling events will not affect any client money held by a firm in its capacity as trustee firm. Instead, the treatment of that client money will be determined by the terms of the relevant instrument of trust or by applicable law. However, the client money distribution and transfer rules do apply to a firm for any client money that it holds other than in that capacity which is subject to the client money rules.

Purpose

7A.2 The client money distribution and transfer rules set out the required treatment of client money on the occurrence of a pooling event so that where:

(1) for example, a firm fails (but also in other situations where a primary pooling event occurs), the rules in CASS 7A.2 (Primary pooling events) facilitate the return or transfer of client money; and

(2) a person at which the firm holds client money fails, the rules in CASS 7A.3 (Secondary pooling events) allocate any loss of client money among certain of the firm’s clients.
7A.2 Primary pooling events

Failure of the authorised firm: primary pooling event

7A.2.1 [deleted]

7A.2.2 A primary pooling event occurs:

(1) on the failure of the firm;

(2) on the vesting of assets in a trustee in accordance with an 'assets requirement' imposed under section 55P(1)(b) or (c) (as the case may be) of the Act;

(3) on the coming into force of a requirement or requirements which, either separately or in combination:

(a) is or are for all client money held by the firm; and

(b) require the firm to take steps to cease holding all client money;

or

(4) when the firm notifies the FCA, in accordance with CASS 7A.2.2R(4), that it is unable correctly to identify and allocate in its records all valid claims arising as a result of a secondary pooling event.

7A.2.3 CASS 7A.2.2R(4) does not apply so long as:

(1) the firm is taking steps, in consultation with the FCA, to establish those records; and

(2) there are reasonable grounds to conclude that the records will be capable of rectification within a reasonable period.

7A.2.3A If a primary pooling event occurs in circumstances where the firm had, before the primary pooling event, reduced its margined transaction requirement by utilising approved collateral under CASS 7A.2.3AR, it must immediately liquidate this approved collateral and place the proceeds in a client bank account that relates to the relevant notional pool under CASS 7A.2.4R(1) (Pooling and distribution or transfer).

7A.2.3B CASS 7A.2.7-AR (Client money received after the failure of the firm) does not apply to the proceeds under CASS 7A.2.3AR.
The proceeds of the assets realised under CASS 7A.2.3A R:

(1) will form part of the relevant notional pool of client money (see CASS 7A.2.4R(1A)(a)(i) (Pooling and distribution or transfer); and

(2) must be distributed or transferred on behalf of clients in accordance with this chapter.

Client money reconciliations after a primary pooling event

(1) If a special administrator has been appointed to the firm under the IBSA Regulations then they will be required to carry out a reconciliation under regulation 10H of the IBSA Regulations.

(2) Notwithstanding regulation 10H of the IBSA Regulations, CASS 7.15 has application to a firm after a primary pooling event, meaning, for example, that ongoing compliant record-keeping is required (see CASS 7.15.15R(4) (Internal client money reconciliations) and CASS 7.15.26AR (Frequency of external reconciliations after a primary pooling event)).

Pooling and distribution or transfer

If a primary pooling event occurs, then:

(1) (a) in respect of a sub-pool, the following is treated as a single notional pool of client money for the beneficiaries of that pool:

(i) any client money held in a client bank account of the firm relating to that sub-pool; and

(ii) any client money held in a client transaction account of the firm relating to that sub-pool, except for client money held in a client transaction account at an authorised central counterparty or a clearing member which is, in either case, held as part of a regulated clearing arrangement;

(b) in respect of the general pool, the following is treated as a single notional pool of client money for the beneficiaries of the general pool:

(i) any client money held in any client bank account of the firm;

(ii) any client money held in a client transaction account of the firm, except for client money held in a client transaction account at an authorised central counterparty, or a clearing member which is, in either case, held as part of a regulated clearing arrangement; and

(iii) any client money identifiable in any other account held by the firm into which client money has been received;
except, in each case, for client money relating to a sub-pool which falls under sub-paragraphs (1)(a)(i) or (ii); and

(1A) (a) a notional pool under paragraph (1) shall also include any client money that is:

(i) transferred by the firm under regulation 10H(3) of the IBSA Regulations to a client bank account that is included in that pool under paragraph (1);

(ii) paid under CASS 7A.2.3AR into a client bank account that is included in that pool under paragraph (1);

(iii) paid under CASS 7A.2.4R(3)(b) or CASS 7A.2.4R(3)(d) into a client bank account or client transaction account that is included in that pool under paragraph (1);

(iv) (subject to sub-paragraph (b)) otherwise received after the primary pooling event into a client transaction account that is included in that pool under paragraph (1) where the receipt is in relation to a margined transaction that the firm had entered into through the use of that client transaction account and which had not closed out before primary pooling event; and

(v) paid under CASS 7.15.29R(1) (Reconciliation discrepancies) after the primary pooling event into a client bank account that is included in that pool under paragraph (1); and

(b) the firm must not transfer any client money in a notional pool under sub-paragraphs (1)(a) or (b) to a client transaction account except where necessary to comply with sub-paragraph (2)(b);

(c) a notional pool under paragraph (1) shall cease to include client money from the point at which it is:

(i) transferred by the firm under regulation 10H(4) of the IBSA Regulations from a client bank account that is included in that pool under paragraph (1); or

(ii) paid out after the primary pooling event from a client transaction account that is included in that pool under paragraph (1) where the payment is in relation to a margined transaction that the firm had entered into through the use of that client transaction account and which had not closed out before primary pooling event.

(2) the firm must, as soon as reasonably practicable:

(a) (subject to paragraph (4)) distribute client money comprising a notional pool in accordance with CASS 7.17.2 R, so that each client who is a beneficiary of that pool receives a sum which is rateable to the client money entitlement calculated in accordance with CASS 7A.2.5R (Client money entitlements); or

(b) (where applicable) transfer client money comprising a sub-pool to effect or facilitate porting of positions held for the clients who are beneficiaries of that sub-pool; and

(3) if, in connection with a regulated clearing arrangement, client money is remitted directly to the firm either from an authorised central counterparty or from a clearing member as part of that person's
default management procedures, then, as soon as reasonably practicable:

(a) any such remittance in respect of a client transaction account that is an individual client account does not form a part of any notional pool under CASS 7A.2.4R(1) and must be distributed to the relevant client subject to CASS 7.17.2R (4);

(b) subject to sub-paragraphs (3)(c) and (d), any such remittance in respect of a client transaction account that is an omnibus client account must form part of the notional pool under CASS 7A.2.4R(1)(b) and be subject to distribution in accordance with CASS 7A.2.4R(2)(a);

(c) any such remittance in respect of a client transaction account that is an omnibus client account must be distributed to the relevant clients for whom that omnibus client account is held if:

(i) no client money in excess of the amount recorded in that omnibus client account is held by the firm as margin in relation to the positions recorded in that omnibus client account; and

(ii) the amount of such remittance attributable to each client of the omnibus client account is readily apparent from information provided to the firm by the authorised central counterparty or, in the case of indirect clients, the clearing member;

in which case the amount of such remittance does not form a part of any notional pool under CASS 7A.2.4R(1) and must be distributed to each such client in accordance with the information provided by the authorised central counterparty or clearing member subject to CASS 7.17.2R (4); and

(d) any such remittance in respect of a client transaction account that is a net margined omnibus client account in respect of which the firm maintains a sub-pool must form part of such sub-pool under CASS 7A.2.4R(1)(a) to be distributed in accordance with CASS 7A.2.4R (2)(a); and

(4) as an alternative to distributing a client’s client money in a notional pool to the relevant client under CASS 7A.2.4R(2)(a) and in respect of client money that that is not required to be transferred under CASS 7A.2.4R(2)(b), a firm (Firm A) may on its own initiative transfer some or all of that client’s client money in the relevant notional pool to any other person (Firm B) for safekeeping on behalf of the client provided that:

(a) as a consequence of any such transfer, Firm A does not distribute to any other client whose client money is in that notional pool, or transfer on behalf of any such other client to another person, an amount of money that would be less than that which such other client was entitled to have distributed or transferred under this rule;

(b) unless Firm A is able to rely on regulation 10B(3)(b) of the IBSA Regulations for the transfer to Firm B to have effect without the consent of the client, either:

(i) Firm A has the specific consent of the client to the transfer to Firm B; or
(ii) (A) there is a written agreement between Firm A and the client which provides that Firm A may transfer the client’s client money to another person; and

(B) Firm A can lawfully rely on that provision to achieve the transfer under this rule;

(c) Firm A has, in advance of the transfer under this rule, either:

(i) obtained a contractual undertaking from Firm B that the money transferred will be held by Firm B as client money in accordance with the client money rules; or

(ii) where the client money rules do not apply to Firm B, or where they do apply but Firm B is able to hold the money transferred other than as client money, satisfied itself, having exercised all due skill care and diligence in its assessment, that Firm B will apply adequate measures to protect the money transferred;

(d) where regulation 10C(3) of the IBSA Regulations does not apply, Firm A has, in advance of the transfer under this rule, obtained a contractual undertaking from Firm B that Firm B will return the money to the client at the client’s request; and

(e) Firm A has, in advance of the transfer under this rule, obtained a contractual undertaking from Firm B that Firm B will notify the client, within 14 days of the transfer of that client’s balance having commenced:

(i) of the applicable regulatory regime under which the money will be held by Firm B;

(ii) either:

(A) of any relevant compensation scheme limits that may apply in respect of Firm B’s handling of the transferred money; or

(B) of the fact that Firm B does not participate in a relevant compensation scheme, if that is the case; and

(iii) where regulation 10C(3) of the IBSA Regulations does not apply, that the client has the option of having its money returned to it by Firm B.

Where regulation 10C(3) of the IBSA Regulations does apply, Firm A should, in advance of the transfer under CASS 7A.2.4R(4), obtain a contractual undertaking from Firm B that:

(1) Firm B will comply with the client’s request for a ‘reverse transfer’ as defined in regulation 10C of the IBSA Regulations; and

(2) Firm B will notify the client, within 14 days of the transfer of that client’s safe custody asset having commenced, that the client can demand a ‘reverse transfer’ as defined in regulation 10C of the IBSA Regulations.

Under CASS 7A.2.4R(1)(b)(i) a firm should include the balances of client money referred to at CASS 7.13.40AR(2), CASS 7.13.53AR(2) and CASS 7.13.72AR(2) in the relevant pool.
(1) Under EMIR, where a firm that is a clearing member of an authorised central counterparty defaults, the authorised central counterparty may:
   (a) port client positions where possible; and
   (b) after the completion of the default management process:
      (i) return any balance due directly to those clients for whom the positions are held, if they are known to the authorised central counterparty; or
      (ii) remit any balance to the firm for the account of its clients if the clients are not known to the authorised central counterparty.

(1A) Under the EMIR L2 Regulation or the MiFIR indirect clearing RTS, where a firm acting in connection with a regulated clearing arrangement for a client (who is also an indirect client) defaults, the clearing member with whom the firm has placed client money of the indirect client, may, in accordance with the EMIR indirect clearing default management obligations or MiFIR indirect clearing default management obligations:
   (a) transfer the positions and assets either to another clearing member of the relevant authorised central counterparty or to another firm willing to act for the indirect client; or
   (b) liquidate the assets and positions of the indirect clients and remit all monies due to the indirect clients.

(1B) For the avoidance of doubt, 'relevant clients' in the case of CASS 7A.2.4R(3)(a) and CASS 7A.2.4R(3)(c) includes a client who is also an indirect client.

(2) Where any balance remitted from an authorised central counterparty or, in the case of indirect clients, a clearing member, to a firm is client money, CASS 7A.2.4R(3) provides for the distribution of remittances from either an individual client account or an omnibus client account.

(3) Remittances received by the firm falling within CASS 7A.2.4R(3)(a) and CASS 7A.2.4R(3)(c) should not be pooled with client money held in any client bank account operated by the firm at the time of the primary pooling event. Those remittances should be segregated and promptly distributed to each client on whose behalf the remittance was received.

(4) For the avoidance of doubt, in respect of a regulated clearing arrangement, any client money remitted by the authorised central counterparty or, in the case of indirect clients, the clearing member, to the firm pursuant to CASS 7A.2.4R(3) should not be treated as client money received after the failure of the firm under CASS 7A.2.7-AR (Client money received after a primary pooling event).

(5) The firm's obligation to its client in respect of client money held in a sub-pool is discharged to the extent that the firm transfers that client money to facilitate porting in accordance with CASS 7.11.34R(8).

(1) The restrictions on transfers of client money at CASS 7A.2.4R(4) are each of the type referred to at regulation 10B(4) of the IBSA Regulations as “a restriction in client money rules”.
(2) Where Firm A has complied with the restrictions at CASS 7A.2.4R(4) for any transfers to Firm B, any money transferred to Firm B ceases to be client money held by Firm A (see CASS 7.11.34R(2)(e) (Discharge of fiduciary duty)).

(3) But any money returned by Firm B to Firm A in the event of a ‘reverse transfer’ will be subject to the client money rules and client money distribution and transfer rules as applied to Firm A, and should be treated by Firm A in accordance with CASS 7A.2.7-AR (Client money received after the failure of the firm).

**Client money entitlements**

\[\text{7A.2.5} \]

\(-2\) (a) Subject to paragraph \(-2\)(b), each client’s entitlement to client money in a notional pool is calculated with reference to the client money requirement as shown by an internal client money reconciliation carried out in accordance with CASS 7.15.15R(4)(a) (Internal client money reconciliations) as at the primary pooling event.

(b) If, as at the primary pooling event, the firm had entered into one or more cleared margined transactions through the use of a client transaction account at a clearing house that had not closed out as at the primary pooling event, the client money requirement under \(-2\)(a) must be calculated as follows:

(i) CASS 7.16.28R does not apply in respect of those cleared margined transactions; and

(ii) subject to CASS 7.16.30R, in respect of those cleared margined transactions a client’s equity balance is instead the amount which the firm is liable to pay to the client (or the client to the firm) under the client money rules for margined transactions following the close out of those margined transactions. This balance should include any cash margin the firm has received from the client in connection with those transactions.

\(-1\) Each client’s client equity balance following any adjustments under paragraph \(-2\) must be reduced by:

(a) any amount paid by:

(i) an authorised central counterparty to a clearing member other than the firm in connection with a porting arrangement in accordance with CASS 7.11.34R (6) in respect of that client; and

(ii) a clearing member to another clearing member or firm (other than the firm) in connection with a transfer in accordance with CASS 7.11.34R (8);

(b) any amount paid by:

(i) an authorised central counterparty directly to that client, in accordance with CASS 7.11.34R (7); and

(ii) a clearing member directly to an indirect client in accordance with CASS 7.11.34R (9); and

(c) any amount that must be distributed to that client by the firm in accordance with CASS 7A.2.4R (3)(a) or (c).
(1) When, in respect of a client who is a beneficiary of a pool and following any adjustments under paragraph (-2) and reductions under paragraph (-1), there is a positive individual client balance and a negative client equity balance in relation to that pool, the credit for that pool must be offset against the debit for that pool reducing the individual client balance for that client.

(2) When, in respect of a client who is a beneficiary of a pool and following any adjustments under paragraph (-2) and reductions under paragraph (-1), there is a negative individual client balance and a positive client equity balance in relation to that pool, the credit for that pool must be offset against the debit for that pool reducing the client equity balance for that client.

7A.2.5A

(1) (a) The effect of CASS 7A.2.5R(-2)(b) is that the client equity balance for the relevant cleared margined transaction is with reference to the eventual close out or 'hindsight' value of the transaction, instead of being a notional balance as at the primary pooling event under CASS 7.16.28R.

(b) CASS 7A.2.5R(-2)(b) applies in respect of cleared margined transactions that a firm had entered into for any client, including for indirect clients where the firm is itself a client of a clearing member.

(2) In cases where CASS 7A.2.5R(-2)(b) does not apply, the client equity balance for a margined transaction will be the notional balance as at the primary pooling event under CASS 7.16.28R.

7A.2.6

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Closing a client money pool

7A.2.6A

(1) Before a firm ceases to treat a balance of client money in a notional pool as client money by transferring it to itself under CASS 7.17.2R(5) it must:

(a) (subject to paragraph (2)) attempt to distribute the balance to the relevant client or transfer it to another person for safekeeping on behalf of the client in accordance with CASS 7A.2.4R (Pooling and distribution or transfer);

(b) (subject to paragraph (3)) take reasonable steps to notify any client in respect of whom the firm has evidence that the money may belong, of the firm's proposed course of action;

(c) where the firm has failed, apply any of the following types of balances of client money in the notional pool towards any costs incurred in accordance with CASS 7.17.2R(4), including any costs incurred under paragraph (1)(d):

(i) client money allocated to a client for which, following the steps taken by the firm to satisfy paragraph (1)(b), the client to whom the client money belongs has not provided the firm with instructions that would enable the firm to make a distribution or transfer under paragraph (1)(a); or
(ii) client money belonging to a client who, in response to a notification made under paragraph (1)(b), has confirmed to the firm that it disclaims the benefit of the statutory trust under §CASS 7.17.2R in relation to the client money; or

(iii) client money that, following the steps taken by the firm to satisfy paragraph (1)(b), is unallocated to any client in the firm’s records and accounts; and

(d) immediately before transferring the balances of client money under paragraph (1)(c) to the firm itself, apply them towards making good any outstanding shortfall in the notional pool, and subsequently distribute or transfer them in accordance with §CASS 7A.2.4R to or on behalf of clients for whom the firm is able to make such distributions or transfers.

(2) A firm is not required to attempt to return or transfer the balance of client money under paragraph (1)(a) where the client to whom the balance belongs has confirmed to the firm that it disclaims the benefit of the statutory trust under §CASS 7.17.2R in relation to the balance client money.

(3) A firm is not required to notify a client under paragraph (1)(b) where:

(a) the firm is able to distribute the client money to the relevant client or transfer it to another person on behalf of the client in accordance with §CASS 7A.2.4R (Pooling and distribution or transfer);

(b) the client to whom the balance of client money belongs has confirmed to the firm that it disclaims the benefit of the statutory trust under §CASS 7.17.2R in relation to the balance client money;

(c) in respect of a client for whom the firm has evidence that they were a retail client for the purposes of the client money rules at the time of the primary pooling event, the entitlement of that client in the notional pool is £25 or less when calculated under §CASS 7A.2.5R (Client money entitlements); or

(d) in respect of a client for whom the firm has evidence that they were a professional client for the purposes of the client money rules at the time of the primary pooling event, the entitlement of that client is £100 or less when calculated under §CASS 7A.2.5R (Client money entitlements).

(1) A firm may propose to cease to treat a balance of money as client money under §CASS 7A.2.6AR(1) where the firm is using the procedure under regulation 12C of the IBSA Regulations to set a ‘hard bar date’ by giving a ‘hard bar date notice’, or another similar procedure in accordance with the legal procedure for the firm’s failure.

(2) In any case, a firm should consider whether its obligations under law (including trust law) or any agreement permit it to cease to treat a balance of money as client money in the way in which it proposes to do so.

(3) Balances of client money under §CASS 7A.2.6AR(1)(c)(iii) include any remaining amount of those that the firm is holding to comply with:
(a) CASS 7.13.41R (Prudent segregation);
(b) CASS 7.13.65R(1) (The alternative approach to client money segregation); and
(c) CASS 7.13.73R(1) (Use of the normal approach in relation to certain regulated clearing arrangements).

7A.2.6C E

(1) Reasonable steps in CASS 7A.2.6AR(1)(b) include the following course of conduct:

(a) determining, as far as reasonably possible, the correct contact details for the relevant client;

(b) for a client for whom the firm has evidence that it was a professional client for the purposes of the client money rules at the time of the primary pooling event:

(i) writing to the client at the last known address either by post or by electronic mail:

(A) to inform it of the firm’s intention to no longer treat the balance as client money;
(B) to inform it of the consequences of the firm’s proposed course of action in relation to the client’s ability to assert an ownership right to that money; and
(C) to invite the client to submit a claim for the money; and

(ii) where the client has not responded within 28 days of the communication under sub-paragraph (i), attempting to communicate the information in sub-paragraph (i) to the client on at least one further occasion by any means other than that used in (i) including by post, electronic mail, telephone or media advertisement; and

(c) for any other client:

(i) the same steps as under sub-paragraphs (b)(i) and (b)(ii); and

(ii) where the client has not responded within 28 days of the second communication under sub-paragraph (b)(ii), attempting to communicate the information in sub-paragraph (b)(i) to the client on at least one further occasion by any means other than one in respect of which the firm has obtained positive confirmation that the client is not receiving such communications.

(2) Compliance with paragraph (1) may be relied on as tending to establish compliance with CASS 7A.2.6AR(1)(b).

(3) Contravention of paragraph (1) may be relied on as tending to establish contravention of CASS 7A.2.6AR(1)(b).

7A.2.6D G

For the purpose of CASS 7A.2.6CE(1)(a), a firm may use any available means to determine the correct contact details for the relevant client, including:

(1) telephoning the client;
(2) searching internal and/or public records;
(3) media advertising;
(4) mortality screening; and
(5) using credit reference agencies or tracing agents.

7A.2.6E
If the firm undertook a tracing exercise for the purposes of CASS 7.11.50R(3) (Allocated but unclaimed client money) before the primary pooling event but had not made the charity payment under that rule by the time of the primary pooling event then the findings of that exercise may be relied on for the purposes of CASS 7A.2.6CE(1)(a).

7A.2.6F
(1) A firm must make a record of any balance under CASS 7A.2.6AR(1)(c)(i) or (ii) which is to be applied towards any costs or towards any shortfall in the relevant notional pool in accordance with CASS 7A.2.6AR(1)(c) or (d) respectively, immediately before taking such steps.

(2) The record under paragraph (1) must state:
(a) the amount of the balance of client money;
(b) the name and contact details of any client to whom that balance was allocated according to the firm’s records at the time of making the record under this rule; and
(c) either:
   (i) the efforts applied by the firm to determine the client’s correct contact details under CASS 7A.2.6CE(1)(a); or
   (ii) if being relied on under CASS 7A.2.6ER, the efforts applied by the firm to determine the client’s correct contact details for the purposes of CASS 7.11.50R(3) (Allocated but unclaimed client money).

(3) A firm must keep the record under (1) indefinitely.

Client money received after a primary pooling event

7A.2.7
[deleted]

7A.2.7-A
(1) This rule applies in respect of client money received by a firm after a primary pooling event that does not form part of a notional pool.

(2) Where the firm is using the normal approach under CASS 7.13.6R (The normal approach), client money to which this rule applies must be received into a client bank account that does not contain any client money forming part of a notional pool under CASS 7A.2.4R(1) (Pooling and distribution or transfer).

(3) (a) This paragraph applies in respect of client money that is received by a firm into an account other than a client bank account as required under CASS 7.13.62R (The alternative approach to client money segregation) or as permitted under CASS 7.13.72R (Use of...
the normal approach in relation to certain regulated clearing arrangements).

(b) To the extent the firm makes any transfers from its own account to a client bank account under CASS 7.13.62R(3) (The alternative approach to client money segregation) or CASS 7.13.72R(2)(b) (Use of the normal approach in relation to certain regulated clearing arrangements), such transfers must be made into a client bank account that does not contain any client money forming part of a notional pool under CASS 7A.2.4R(1) (Pooling and distribution or transfer).

(4) Subject to paragraphs (5) and (6), a firm must promptly return to each relevant client all client money to which this rule applies.

(5) To the extent that client money relates to a transaction for a client that was concluded before the primary pooling event but had not yet settled at the time of the primary pooling event, the firm may use that client money to settle that transaction.

(6) (a) This paragraph applies where client money which is not received by the firm into a client transaction account relates to one or more cleared margined transactions entered into by the firm through the use of a client transaction account at a clearing house.

(b) Where such transactions have not closed out as at the primary pooling event, then provided that the firm has not failed, it may transfer that client money to a client transaction account with the relevant clearing house in accordance with CASS 7.14 (Client money held by a third party) for the purpose of collateralising those margined transactions.

7A.2.7A G A firm may open a client bank account after a primary pooling event for the purposes of complying with CASS 7A.2.7-AR(2) and CASS 7A.2.10AR(2). If it does so it must comply with CASS 7.18.15R regarding acknowledgement letters.

7A.2.7B G Following a failure, CASS 7.17.2R(4) applies in respect of costs properly attributable to the return of a client’s client money under CASS 7A.2.7-AR(4).

7A.2.8 G [deleted]

7A.2.9 R If a firm receives a mixed remittance after a primary pooling event other than where using the alternative approach under CASS 7.13.62R or under a regulated clearing arrangement to which CASS 7.13.72R applies, it must:

(1) pay the full sum into a client bank account that meets the requirements of CASS 7A.2.7-AR(2); and

(2) pay the money that is not client money out of that client bank account into a firm’s own bank account within one business day of the day on which the firm would normally expect the remittance to be cleared.
Whenever possible the *firm* should seek to split a *mixed remittance* before the relevant accounts are credited.

**Money due to a client from a firm after a primary pooling event**

A *firm* that is operating the normal approach to segregation under [CASS 7.13](#) (Segregation of client money) which becomes liable to pay *money* to a *client* after a primary pooling event must promptly, and in any event no later than one *business day* after the *money* is due and payable, pay the *money*:

1. to, or to the order of, the *client*; or
2. into a *client bank account* that does not contain any *client money* forming part of a notional *pool* under [CASS 7A.2.4R](#)(1).

Where the *firm* has payment instructions from the *client*, the *firm* should pay the money to the order of the *client*, rather than into a *client bank account*.

**Secondary pooling events**

If both a primary pooling event and a secondary pooling event occur, the provisions of this section relating to a primary pooling event apply.
7A.3 Secondary pooling events

7A.3.1 A secondary pooling event occurs on the failure of a person to which client money held by the firm has been transferred under CASS 7.13.3R (1) to CASS 7.13.3R (3) (Depositing client money) or CASS 7.14.2R (Client money held by a third party).

7A.3.2 CASS 7A.3.6R to CASS 7A.3.12AR do not apply if, on the failure of the relevant person:

(1) there is no secondary pooling shortfall; or

(2) where there is a secondary pooling shortfall, the firm pays an amount equal to the amount of client money which would have been held at that person if a secondary pooling shortfall had not occurred either:

(a) to its clients in the appropriate amounts such that they are compensated by the amount of the secondary pooling shortfall that they would otherwise be required to bear under this section; or

(b) into a client bank account at an unaffected bank with the effect that any shortfall that would otherwise arise for the purposes of CASS 7.15 (Records, accounts and reconciliations) is avoided.

7A.3.3 [deleted]

7A.3.4 When a person to which client money held by the firm has been transferred under CASS 7.13.3R(1) to CASS 7.13.3R(3) (Depositing client money) or CASS 7.14.2R (Client money held by a third party) fails, and the firm decides not to make good any secondary pooling shortfall in the amount of client money held at that person (see CASS 7A.3.2R(2)), a secondary pooling event will occur. The firm should reflect the secondary pooling shortfall that arises in the general pool (where the firm maintains only a general pool) and, where relevant, in a particular sub-pool (where the firm maintains both a general pool and one or more sub-pools) in its records of the entitlement of clients and of money held with third parties under CASS 7.15 (Records, accounts and reconciliations).

7A.3.5 The client money distribution and transfer rules seek to ensure that clients who have previously specified that they are not willing to accept the risk of the bank that has failed, and who therefore requested that their client money be placed in a designated client bank account at a different bank, should not suffer the loss of the bank that has failed.
Failure of a bank: pooling

If a secondary pooling event occurs as a result of the failure of a bank where one or more general client bank accounts are held, and/or where one or more designated client bank accounts or designated client fund accounts are held, for the general pool or a particular sub-pool, then:

1. In relation to every general client bank account of the firm maintained in respect of that pool, the provisions of \( \text{CASS 7A.3.8 R}, \) \( \text{CASS 7A.3.13 R} \) and \( \text{CASS 7A.3.14 R} \) will apply;

2. In relation to every designated client bank account held by the firm with the failed bank for the relevant pool, the provisions of \( \text{CASS 7A.3.10 R}, \) \( \text{CASS 7A.3.13 R} \) and \( \text{CASS 7A.3.14 R} \) will apply;

3. In relation to each designated client fund account held by the firm with the failed bank for the relevant pool, the provisions of \( \text{CASS 7A.3.11 R}, \) \( \text{CASS 7A.3.13 R} \) and \( \text{CASS 7A.3.14 R} \) will apply;

4. Any money held at a bank, other than the bank that has failed, in designated client bank accounts for the relevant pool, is not pooled with any other client money held for that pool or any other pool; and

5. Any money held in a designated client fund account in respect of that pool, no part of which is held by the bank that has failed, is not pooled with any other client money held for that pool or any other pool.

Depending on the person at which the secondary pooling event occurs, the types of client bank accounts and client transaction accounts that are affected by the secondary pooling shortfall, and the nature of a firm's business with a particular client, it is possible that the client's overall entitlement to client money held by the firm may be affected by a combination of \( \text{CASS 7A.3.8R}, \text{CASS 7A.3.8AR}, \text{CASS 7A.3.10R} \) and \( \text{CASS 7A.3.11R} \).

Failure of an exchange, clearing house, intermediate broker, settlement agent or OTC counterparty: pooling

If a secondary pooling event occurs as a result of the failure of an exchange, clearing house, intermediate broker, settlement agent or OTC counterparty, then, in relation to every general client bank account and client transaction account of the firm, \( \text{CASS 7A.3.8R} \) and \( \text{CASS 7A.3.13R} \) will apply, and \( \text{CASS 7A.3.8AR} \) will additionally apply in the case of the failure of an authorised central counterparty.

Failure of a bank, intermediate broker, settlement agent, OTC counterparty, exchange or clearing house: treatment of general client bank accounts and client transaction accounts

Money subject to \( \text{CASS 7A.3.8AR} \), if a secondary pooling event occurs as a result of the failure of a bank, intermediate broker, settlement agent, OTC counterparty, exchange or clearing house, money held in each general client...
Section 7A.3: Secondary pooling events

distribution and transfer

bank account and client transaction account of the firm for the general pool or a sub-pool must be treated as pooled and:

(1) any secondary pooling shortfall in client money held, or which should have been held, in general client bank accounts and client transaction accounts for the relevant pool, that has arisen as a result of the failure of the bank, exchange, clearing house, intermediate broker, settlement agent or OTC counterparty, must be borne by all the clients of that pool whose client money is held in such general client bank account or client transaction account of the firm, rateably in accordance with their entitlements;

(2) a new client money entitlement must be calculated for each client of the relevant pool by the firm, to reflect the requirements in paragraph (1), and the firm’s records must be amended to reflect the reduced client money entitlement;

(3) the firm must make and retain a record of each client’s share of the secondary pooling shortfall until the client is repaid; and

(4) the firm must use the new client money entitlements, calculated in accordance with paragraph (2), for the purposes of reconciliations pursuant to CASS 7.15.3 R (Records and accounts) for that pool.

If a secondary pooling event occurs as a result of the failure of an authorised central counterparty:

(1) any money held in a client transaction account that is an individual client account at the failed authorised central counterparty is not pooled by the firm with any of its other client money;

(2) any money held in a client transaction account that is an omnibus client account at the failed authorised central counterparty is not pooled by the firm with any of its other client money provided that:

(a) no client money in excess of the amount recorded in that omnibus client account is held by the firm as margin in relation to the positions recorded in that omnibus client account; and

(b) the client or clients of the firm to whom the amount recorded in that omnibus client account relates is or are readily apparent from information provided to the firm by the authorised central counterparty or, in the case of indirect clients, the clearing member;

(3) any money held in a client transaction account that is a net margined omnibus client account at the failed authorised central counterparty in respect of which the firm maintains a sub-pool is not pooled by the firm with any of its other client money;

(4) the proportion of any secondary pooling shortfall that arises as a result of client money held, or which should have been held, in an individual client account to which paragraph (1) applies must be borne by the client whose client money was held in that individual client account;
(5) the proportion of any secondary pooling shortfall that arises as a result of client money held, or which should have been held, in an omnibus client account to which paragraph (2) applies must either:

(a) be borne by all the clients whose client money is held in that account, rateably in accordance with their entitlements; or

(b) if the firm is required under applicable law to allocate the secondary pooling shortfall other than as under (a), be allocated as required by applicable law;

(6) the proportion of any secondary pooling shortfall that arises as a result of client money held, or which should have been held, in a net margined omnibus client account to which paragraph (3) applies must be borne by all the clients whose client money is held in the relevant sub-pool, rateably in accordance with their entitlements;

(7) a new client money entitlement must be calculated for each relevant client of the relevant pool, to reflect the requirements in paragraphs (1), (2) and (3), and the firm’s records must be amended to reflect the reduced client money entitlement;

(8) the firm must make and retain a record of each client’s share of the secondary pooling shortfall until the client is repaid; and

(9) the firm must use the new client money entitlements calculated under paragraph (7) for the purposes of reconciliations pursuant to CASS 7.15.3R (Records and accounts) for the relevant pool.

The term “which should have been held” is a reference to the relevant failed person’s failure to hold the client money at the time of its failure.

CASS 7A.3.8AR(5)(b) enables a firm to allocate the relevant part of a secondary pooling shortfall that arises in an omnibus client account under CASS 7A.3.8AR(2) other than on a “pro rata” basis, where this is required by applicable law.

This would include, for example, where applicable law requires the firm to attribute a secondary pooling shortfall only to a particular client or clients.

Failure of a bank: treatment of designated client bank accounts and designated client fund accounts

For each client with a designated client bank account maintained by the firm for the general pool or a particular sub-pool and held at the failed bank:

(1) any secondary pooling shortfall in client money held, or which should have been held, in designated client bank accounts that has arisen as a result of the failure, must be borne by all the clients of the relevant pool whose client money is held in a designated client bank account of the firm at the failed bank, rateably in accordance with their client money entitlements;

(2) a new client money entitlement must be calculated for each of the relevant clients of the relevant pool by the firm, and the firm’s
records must be amended to reflect the reduced client money entitlement;

(3) the firm must make and retain a record of each client’s share of the secondary pooling shortfall at the failed bank until the client is repaid; and

(4) the firm must use the new client money entitlements, calculated in accordance with paragraph (2), for the purposes of reconciliations pursuant to CASS 7.15.3 R (Records and accounts) in respect of the relevant pool.

7A.11 Money held by the firm in each designated client fund account for the general pool or a particular sub-pool with the failed bank must be treated as pooled with any other designated client fund accounts for the general pool or a particular sub-pool as the case may be which contain part of the same designated fund and:

(1) any secondary pooling shortfall in client money held, or which should have been held, in designated client fund accounts that has arisen as a result of the failure, must be borne by each of the clients of the relevant pool whose client money is held in that designated fund, rateably in accordance with their entitlements;

(2) a new client money entitlement must be calculated for each client of the relevant pool by the firm, in accordance with paragraph (1), and the firm’s records must be amended to reflect the reduced client money entitlement;

(3) the firm must make and retain a record of each client’s share of the secondary pooling shortfall at the failed bank until the client is repaid; and

(4) the firm must use the new client money entitlements, calculated in accordance with paragraph (2), for the purposes of reconciliations pursuant to CASS 7.15.3 R (Records and accounts) for the relevant pool.

7A.12 A client whose money was held, or which should have been held, in a designated client bank account with a bank that has failed is not entitled to claim in respect of that money against any other client bank account or client transaction account of the firm.

7A.12A A client whose money was held, or which should have been held, in a designated client fund account with a bank that has failed is not entitled to claim in respect of that money against any other client bank account of the firm that is not part of the same designated fund or against any client transaction account of the firm.

Client money received after the secondary pooling event

7A.13 Client money received by the firm after the failure of a bank, exchange, clearing house, intermediate broker, settlement agent or OTC counterparty, that would otherwise have been paid into a client bank account or client...
transaction account at that bank, exchange, clearing house, intermediate broker, settlement agent or OTC counterparty, as the case may be, for either the general pool or a particular sub-pool:

(1) must not be transferred to the failed person unless specifically instructed by the client in order to settle an obligation of that client to the failed person; and

(2) must be, subject to paragraph (1), placed in a client bank account or client transaction account relating to the general pool or the particular sub-pool as the case may be other than an account at the failed person.

7A.3.14 If a firm receives a mixed remittance after the secondary pooling event which consists of client money that would have been paid into a general client bank account, a designated client bank account or a designated client fund account maintained at the bank that has failed, it must:

(1) pay the full sum into a client bank account other than one operated at the bank that has failed; and

(2) pay the money that is not client money out of that client bank account within one business day of the day on which the firm would normally expect the remittance to be cleared.

7A.3.15 Whenever possible the firm should seek to split a mixed remittance before the relevant accounts are credited.

7A.3.16 [deleted]

7A.3.17 [deleted]

7A.3.18 [deleted]:

Notification to the FCA of secondary pooling event

7A.3.19 A firm must notify the FCA as soon as reasonably practical after it becomes aware of the failure of any bank, exchange, clearing house, intermediate broker, settlement agent, OTC counterparty or other entity with which it has placed, or whom it has allowed to hold, client money:

(1) [deleted]

(2) [deleted]

(3) whether it intends to make good any secondary pooling shortfall that has arisen or may arise; and

(4) the amount of that secondary pooling shortfall, or the expected amount if the actual amount is not known.
This chapter (the mandate rules) applies to a firm when it has a mandate in the course of, or in connection with, the firm’s:

1. designated investment business (including MiFID business); or
2. insurance distribution activity, except where it relates to a reinsurance contract;
3. debt management activity.

The mandate rules do not apply to a firm:

1. in relation to client money that the firm is holding in accordance with \( \text{\textbullet} \) CASS 5 or \( \text{\textbullet} \) CASS 7 (including client money that the firm has allowed another person to hold or control in accordance with \( \text{\textbullet} \) CASS 7.14.2R) or \( \text{\textbullet} \) CASS 11; or
2. in relation to custody assets that the firm is holding, or in respect of which the firm is carrying on safeguarding and administration of assets (without arranging), acting as trustee or depositary of an AIF or acting as trustee or depositary of a UK UCITS in accordance with \( \text{\textbullet} \) CASS 6; or
3. in relation to a client’s assets that the firm is holding or has received under an arrangement to which \( \text{\textbullet} \) CASS 3 applies; or
4. when it acts as the operator of a regulated collective investment scheme in relation to property held for or within the scheme.

\( \text{\textbullet} \) CASS 8.1.2A R is not an absolute exemption, but it excludes the application of the mandate rules in relation to money or assets that a firm has received, is holding, or is responsible for (as appropriate and in the circumstances described in \( \text{\textbullet} \) CASS 8.1.2A R).
(2) This means that, for example in respect of ▲ CASS 8.1.2A R (1), a firm holding client money in accordance with ▲ CASS 5 or ▲ CASS 7 does not also need to comply with the mandate rules in relation to the client money which it actually holds, but the mandate rules would apply if the firm has a mandate under which it can receive a client’s money from another person in the course of, or in connection with, the activities set out at ▲ CASS 8.1.1 R (1) and ▲ CASS 8.1.1 R (2).

(3) Similarly, in respect of ▲ CASS 8.1.2A R (4), the mandate rules apply to a firm that is the operator of a regulated collective investment scheme if, for example, it has a mandate under which it can receive a client’s money from another person for the purposes of investing it in the scheme.

8.1.3  ▲ [deleted]

Purpose

8.1.4  ▲ The mandate rules require firms to establish and maintain records and internal controls to prevent the misuse of a mandate.

8.1.4A  ▲ The mandate rules only apply to a firm that has a mandate, and do not affect the duties of any other person to whom the firm is able to give the types of instructions referred to in ▲ CASS 8.2.1R (4). For example, if a person (A) has accepted a deposit from a client, and a firm (B) has a mandate in respect of that client’s deposit held by A, the mandate rules only apply to B, and do not affect the duties of A in relation to the deposit.

8.1.5  ▲ [deleted]
### 8.2 Definition of mandate

**8.2.1** A mandate is any means that give a firm the ability to control a client’s assets or liabilities, which meet the conditions in (1) to (5):

1. They are obtained by the firm from the client, and with the client’s consent;
2. Where those means are obtained in the course of, or in connection with, the firm’s insurance distribution activity, they are in written form at the time they are obtained from the client;
3. They are retained by the firm;
4. They put the firm in a position where it is able to give any or all of the types of instructions described in (a) to (d):
   (a) Instructions to another person in relation to the client’s money that is credited to an account maintained by that other person for the client;
   (b) Instructions to another person in relation to any money to which the client has an entitlement, where that other person is responsible to the client for that entitlement (including where that other person is holding client money for the client in accordance with CASS 5 or CASS 7);
   (c) Instructions to another person in relation to an asset of the client, where that other person is responsible to the client for holding that asset (including where that other person is safeguarding and administering investments, acting as trustee or depositary of an AIF or acting as trustee or depositary of a UK UCITS);
   (d) Instructions to another person such that the client incurs a debt or other liability to that other person or any other person (other than the firm); and
5. Their circumstances are such that the client’s further involvement would not be necessary for the firm’s instructions described in 4(a) to 4(d) to be given effect.

**The form of a mandate**

A mandate can take any form and need not state that it is a mandate. For example it could take the form of:
(1) a standalone document containing certain information conferring authority to control a client’s assets or liabilities on the firm;

(2) a specific provision within a document or agreement that also relates to other matters; or

(3) an authority provided by a client orally.

Retention by the firm

8.2.3 (1) If a firm receives information that puts it in the position described in CASS 8.2.1 R (4) in order to effect transactions immediately on receiving that information, then such information could only amount to a mandate if the firm retained it (for example by not destroying the relevant document, electronic record or telephone recording):

(a) after it uses it to effect those immediate transactions; or

(b) because those transactions are not, for whatever reason, effected immediately.

(2) If a firm receives information that puts it in the position described in CASS 8.2.1 R (4) and the firm retains that information (for example in accordance with its record-keeping procedures or in order to effect transactions in the future or over a period of time) then such information could amount to a mandate.

Ability to give instructions to another person

8.2.4 The instructions referred to at CASS 8.2.1 R (4) are all instructions given by a firm to another person who also has a relationship with the firm’s client. For example, the other person may be the client’s bank, intermediary, custodian or credit card provider. This means, for example, that any means by which a firm can control a client’s money or assets for which it is itself responsible to the client (rather than any other person) would not amount to a mandate. This includes where the firm is holding a client’s money or assets other than in accordance with CASS 5, CASS 6 or CASS 7 (for example, because of an exemption in those rules).

8.2.5 A mandate in relation to the type of instructions referred to in CASS 8.2.1 R (4)(a) could include a direct debit instruction over a client’s bank account in favour of the firm. The fact that the instruction was given by the client in the form of a paperless direct debit would not prevent it from being a mandate.

8.2.6 A mandate in relation to the type of instructions referred to in CASS 8.2.1 R (4)(d) could include the client’s credit card details.

Conditions on use of mandate and client’s further involvement

8.2.7 (1) If a firm obtains the means by which it can give the types of instructions referred to in CASS 8.2.1 R (4), but its use of those means is subject to any limits or conditions, then this does not necessarily prevent those means from being a mandate. For example, a client
might require that a firm uses a mandate only in connection with transactions up to a certain value.

(2) However, if a firm obtains the means by which it can give the types of instructions referred to in CASS 8.2.1 R (4), but the firm cannot, in practice, use those means without the client’s further involvement, then the condition in CASS 8.2.1 R (5) would not be met. For example, a firm might have the means by which it can give instructions of the type referred to in CASS 8.2.1 R (4)(a) in relation to an account maintained by another person for a client, but that other person might require the client’s signature or other authorisation before it gives effect to those instructions.
A firm that has mandates must establish and maintain adequate records and internal controls in respect of its use of the mandates.

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

(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.

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

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.

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.

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).
Retention of records

8.3.2G  
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  
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  
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.
Chapter 9

Information to clients
This chapter applies as follows:

(1) CASS 9.2 and CASS 9.3 apply to a prime brokerage firm to which CASS 6 (Custody rules) applies;

(2) subject to paragraphs (3) and (4), CASS 9.4 and CASS 9.5 apply to a firm to which either or both CASS 6 (Custody rules) and CASS 7 (Client money rules) applies;

(3) CASS 9.4 and CASS 9.5 do not apply to a firm which only arranges safeguarding and administration of assets; and

(4) for a firm to which CASS 7 (client money rules) applies as well as either or both of CASS 5 (Client money: insurance distribution activity) and CASS 11 (Debt management client money chapter) apply, this chapter does not apply to client money that a firm holds in accordance with CASS 5 or CASS 11.
9.2 Prime broker's daily report to clients

(1) A firm must make available to each of its clients to whom it provides prime brokerage services a statement in a durable medium:

(a) showing the value at the close of each business day of the items in (3); and

(b) detailing any other matters which that firm considers are necessary to ensure that a client has up-to-date and accurate information about the amount of client money and the value of safe custody assets held by that firm for it.

(2) The statement must be made available to those clients not later than the close of the next business day to which it relates.

(3) The statement must include:

(a) the total value of safe custody assets and the total amount of client money held by that prime brokerage firm for a client;

(b) the cash value of each of the following:

   (i) Cash loans made to that client and accrued interest;

   (ii) securities to be redelivered by that client under open short positions entered into on behalf of that client;

   (iii) current settlement amount to be paid by that client under any futures contracts;

   (iv) short sale cash proceeds held by the firm in respect of short positions entered into on behalf of that client;

   (v) cash margin held by the firm in respect of open futures contracts entered into on behalf of that client;

   (vi) mark-to-market close-out exposure of any OTC transaction entered into on behalf of that client secured by safe custody assets or client money;

   (vii) total secured obligations of that client against the prime brokerage firm; and

   (viii) all other safe custody assets held for that client.

(c) total collateral held by the firm in respect of secured transactions entered into under a prime brokerage agreement, including where the firm has exercised a right of use in respect of that client's safe custody assets;

(d) the location of all of a client's safe custody assets, including assets held with a sub-custodian; and
(e) a list of all the institutions at which the firm holds or may hold client money, including money held in client bank accounts and client transaction accounts.

Where a firm has entered into an agreement with a client under article 91 (Reporting obligations for prime brokers) of the AIFMD level 2 regulation, and to the extent that the firm makes available to the client the same statements as specified by that article that it is required to provide to the relevant depositary, the FCA will treat the obligations under CASS 9.2.1 R as satisfied by the firm.
9.3 Prime brokerage agreement disclosure annex

9.3.1 A firm must ensure that every prime brokerage agreement that includes its right to use safe custody assets for its own account includes a disclosure annex.

9.3.2 Principle 10 (Clients’ assets) requires a firm to arrange adequate protection for client's assets when it is responsible for them. As part of these protections, the custody rules require a firm to take appropriate steps to protect safe custody assets for which it is responsible.

(1) Subject to paragraph (3), a prime brokerage firm should not enter into “right to use arrangements” for a client's safe custody assets unless:

(a) in the case of a CASS small firm or a firm to which CASS 1A.3.1C R applies, the person in that firm to whom the responsibilities set out in CASS 1A.3.1 R or in CASS 1A.3.1C R (2) respectively have been allocated; or

(b) in the case of any other firm, the person who carries out the CASS operational oversight function; and
(c) those of that firm's managers who are responsible for those safe custody assets;

are each satisfied that the firm has adequate systems and controls to discharge its obligations under Principle 10 which include (where applicable):

(i) the daily reporting obligation in CASS 9.2.1 R; and
(ii) the record-keeping obligations in CASS 6.3.6AR.

(3) Paragraph (2) does not apply where the prime brokerage firm is also acting as trustee or depositary of an AIF which is an unauthorised AIF and exercises a right of reuse for a safe custody asset of that unauthorised AIF under FUND 3.11.24 R (Reuse of assets).
9.4 Information to clients concerning custody assets and client money

9.4.1 (1) Firms to which COBS 6.1 applies are reminded that, under COBS 6.1.7R, a firm that holds client designated investments or client money must provide its clients with specific information about how the firm holds those client designated investments and client money and how certain arrangements might give rise to specific consequences or risks for those client designated investments and client money.

(2) COBS 6.1 (Information about the firm and compensation information (non-MiFID and non-insurance distribution provisions)) applies to a firm in relation to its designated investment business, other than MiFID, equivalent third country or optional exemption business or insurance distribution activities, for a retail client.

9.4.2 A firm to which COBS 6.1 applies that holds custody assets or client money must, in relation to its business for which COBS 6.1 applies:

(1) provide the information in COBS 6.1.7 R for any custody assets the firm may hold for a client, including any custody assets which are not designated investments; and

(2) provide the information in COBS 6.1.7 R and in (1) to each of its clients.

9.4.2A Firms to which COBS 6.1ZA applies are reminded of the requirements under article 49 of the MiFID Org Regulation (which are directly applicable to some firms and which are also applied to firms in other circumstances under COBS 6.1ZA.3R) to provide certain information to a client when the firm is holding the client’s financial instruments or funds (see COBS 6.1ZA.9EU) and the requirement under COBS 6.1ZA.10AR when a firm doing insurance distribution activities is holding client money and has elected to comply with the client money chapter.

(2) COBS 6.1ZA (Information about the firm and compensation information (MiFID and insurance distribution provisions)) applies to a firm in relation to its MiFID, equivalent third country or optional exemption business or its insurance distribution activities for a client.

9.4.2B A firm to which COBS 6.1ZA applies that holds custody assets or client money must, in relation to its business for which COBS 6.1ZA applies:
provide the information referred to in paragraphs 2 to 7 of article 49 of the MiFID Org Regulation for any custody asset that the firm may hold for a client, including:

any custody asset which is a designated investment but not a financial instrument; and

any custody asset which is neither a designated investment nor a financial instrument; and

provide the information in (1) to each of its clients.

9.4.3 A firm should provide the information required in ■ CASS 9.4.2 R or ■ CASS 9.4.2BR (as applicable) to any client for whom it holds custody assets or client money, including a retail client, a professional client and an eligible counterparty.

9.4.4 (1) Firms are reminded of their obligation, under ■ COBS 4.2.1 R, to be fair, clear and not misleading in their communications with clients.

(2) Firms are also reminded of the requirements in respect of communications made to retail clients under ■ COBS 4.5 and clients under article 44 of the MiFID Org Regulation and ■ COBS 4.5A (as applicable).
9.5 Reporting to clients on request

9.5.1 (1) Firms to which COBS 16.4 applies are reminded that, under COBS 16.4, they are required to send to each of their clients at least once a year a statement in a durable medium of those designated investments and/or client money they hold for that client. A firm which manages investments may provide this statement in its periodic statement, as required under COBS 16.3.

(2) COBS 16.4 (Statements of client designated investments or client money) applies, in accordance with COBS 16.1.2R, to a firm carrying on designated investment business other than MiFID, equivalent third country or optional exemption business.

9.5.2 Firms are reminded that the requirements in COBS 16.4, article 63 of the MiFID Org Regulation and COBS 16A.4 only set out the minimum frequency at which firms must report to their clients on their holdings of designated investments and/or client money. Firms may choose to report to their clients more frequently.

9.5.3 Subject to CASS 9.5.5AR and CASS 9.5.6 R, CASS 9.5.4R, CASS 9.5.48R and CASS 9.5.5 R require firms to comply with a client's request for information on the custody assets and/or client money the firm holds for a client under CASS 6 and/or CASS 7, and such request may be made by a client at any time.

9.5.4 When a firm to which COBS 16.4 applies receives a request, made by a client, or on a client’s behalf, for a statement of the custody assets and/or client money that the firm holds for that client, the firm must provide the client with the statement requested in a durable medium.

9.5.4A (1) Firms to which COBS 16A applies are reminded of the requirements under article 63 of the MiFID Org Regulation (which are directly applicable to some firms and which are also applied to firms in other circumstances under COBS 16A.1.2R) in relation to quarterly statements when the firm is holding a client’s financial instruments or funds (see COBS 16A.4.1EU and COBS 16A.5.1EU).

(2) COBS 16A (Reporting information to clients (MiFID provisions) applies to a firm in relation to its MiFID, equivalent third country or optional exemption business.)
When a *firm* to which ■ COBS 16A applies receives a request, made by a *client*, or on a *client*’s behalf, for a statement of the *custody assets* that the *firm* holds for that *client*, it must provide the *client* with a statement in a *durable medium* in relation to any *custody assets* that are not *financial instruments*.

A *firm* to which ■ COBS 16A applies may combine the statement required under ■ CASS 9.5.4R with a statement issued in response to a request made under the last sentence of the first sub-paragraph of article 63(1) of the MiFID Org Regulation.

When a *firm* receives a request, made by a *client*, or on a *client*’s behalf, for a copy of any statement of *custody assets* and/or *client money* previously provided to that *client*, the *firm* must provide the *client* with the copy of the statement requested in a *durable medium* and within five *business days* following the receipt of the request.

A *firm* is not required to provide a *client* with a statement under ■ CASS 9.5.4R or ■ CASS 9.5.4BR, or a copy of a statement under ■ CASS 9.5.5R (as applicable) where the following conditions are met:

1. the *firm* provides the *client* with access to an online system, which qualifies as a *durable medium*;

2. up-to-date statements of the *client*’s *custody assets* and/or *client money* can be easily accessed by the *client* via the system under (1); and

3. the *firm* has evidence that the *client* has accessed this statement at least once during the relevant quarter.

Any charge agreed between the *firm* and the *client* for providing the statements in ■ CASS 9.5.4R, ■ CASS 9.5.4BR or ■ CASS 9.5.5R (as applicable) must be at a commercial cost.

Any statement provided to a *client* under ■ CASS 9.5.4 R or ■ CASS 9.5.5 R (as applicable) may, although it is not required to, be in the same form as the statement a *firm* is required to provide to a *client* under ■ COBS 16.4 or, if appropriate, ■ COBS 16.3.

Consistent with the *fair, clear and not misleading rule*, a *firm* should ensure that, in any statements of *custody assets* and/or *client money* it provides to its *clients*, it is clear from the statement which assets and/or monies the *firm* reports as holding for the *client* are, or are not, protected under ■ CASS 6 and/or ■ CASS 7 (e.g. if the statement also includes information regarding assets and/or monies which are held by the *firm* for that *client* which are not subject to the *custody rules* and/or *client money rules*).

Firms are reminded that under ■ CASS 3.2.4 G *firms* that enter into arrangements with *retail clients* covered by ■ CASS 3 (Collateral) should, when appropriate, identify in any statement of *custody assets* sent to the *client*...
under COBS 16.4 (Statements of client designated investments or client money), article 63 of the MiFID Org Regulation or COBS 16A.4 (as applicable) or this section the details of the assets which form the basis of that collateral arrangement.
Chapter 10

CASS resolution pack
10.1 Application, purpose and general provisions

Application

10.1.1 Subject to (2) this chapter applies to a firm when it:

(a) holds financial instruments, is safeguarding and administering investments, is acting as trustee or depositary of an AIF or is acting as trustee or depositary of a UCITS, in accordance with CASS 6;

(a) is acting as a small AIFM and carries on excluded custody activities in accordance with CASS 6; and/or

(b) holds client money in accordance with CASS 7.

(2) This chapter does not apply to a firm to which CASS 6 applies merely because it is:

(a) a firm which arranges safeguarding and administration of assets;

or

(b) a small AIFM carrying on those excluded custody activities that would amount to arranging safeguarding and administration of assets but for the exclusion in article 72AA of the RAO.

Purpose

10.1.2 The purpose of the CASS resolution pack is to ensure that a firm maintains and is able to retrieve information that would:

(1) in the event of its insolvency, assist an insolvency practitioner in achieving a timely return of client money and safe custody assets held by the firm to that firm’s clients; and

(2) in the event of its or another firm’s resolution, assist the Bank of England; and

(3) in either case, assist the FCA.

General provisions

10.1.3 A firm falling within CASS 10.1.1 R must maintain and be able to retrieve, in the manner described in this chapter, a CASS resolution pack.

10.1.4 A firm is required to maintain a CASS resolution pack at all times when CASS 10.1.1 R applies to it.
10.1.5 (1) The rules in this chapter specify the types of documents and records that must be maintained in a firm’s CASS resolution pack and the retrieval period for the pack. The firm should maintain the component documents of the CASS resolution pack in order for them to be retrieved in accordance with CASS 10.1.7 R, and should not use the retrieval period to start producing these documents.

(2) The contents of the documents that constitute the CASS resolution pack will change from time to time (for example, because daily reconciliations must be included in the pack).

(3) A firm is only required to retrieve the CASS resolution pack in the circumstances prescribed in CASS 10.1.7 R.

10.1.6 For the purpose of this chapter, a firm will be treated as satisfying a rule in this chapter requiring it to include a document in its CASS resolution pack if a member of that firm’s group includes that document in its own CASS resolution pack, provided that:

(1) that group member is subject to the same rule; and

(2) the firm is still able to comply with CASS 10.1.7 R.

10.1.7 In relation to each document in a firm’s CASS resolution pack a firm must:

(1) put in place adequate arrangements to ensure that an administrator, receiver, trustee, liquidator or analogous officer appointed in respect of it or any material part of its property is able to retrieve each document as soon as practicable and in any event within 48 hours of that officer’s appointment; and

(2) ensure that it is able to retrieve each document as soon as practicable, and in any event within 48 hours, where it has taken a decision to do so or as a result of an FCA or Bank of England request.

[Note: article 2(5) of the MiFID Delegated Directive]

10.1.8 Where documents are held by members of a firm’s group in accordance with CASS 10.1.6 R, the firm must have adequate arrangements in place with its group members which allow for delivery of the documents within the timeframe referred to in CASS 10.1.7 R.

10.1.9 (1) For the purpose of CASS 10.1.7 R, the following documents and records should be retrievable immediately:

(a) the document identifying the institutions referred to in CASS 10.2.1R (2);

(b) the document identifying individuals pursuant to CASS 10.2.1R (4);

(c) any written notification or acknowledgement letters referred to in CASS 10.2.1R (5);

(d) the most recent internal custody records checks referred to in CASS 10.3.1R (3);
(e) the most recent external custody reconciliations referred to in CASS 10.3.1R (5);

(f) the most recent internal client money reconciliations referred to in CASS 10.3.1R (7) and CASS 10.3.1R (7A); and

(g) the most recent external client money reconciliations referred to in CASS 10.3.1R(7A).

(2) Where a firm is reliant on the continued operation of certain systems for the provision of component documents in its CASS resolution pack, it should have arrangements in place to ensure that these systems will remain operational and accessible to it after its insolvency.

(3) Contravention of (1) or (2) may be relied upon as tending to establish contravention of CASS 10.1.7 R.

10.1.10 G Where a firm anticipates that it might be the subject of an insolvency order, it is likely to have sought advice from an external adviser. The firm should make the CASS resolution pack available promptly, on request, to such an adviser.

10.1.11 R (1) A firm must ensure that it reviews the content of its CASS resolution pack on an ongoing basis to ensure that it remains accurate

(2) In relation to any change of circumstances that has the effect of rendering inaccurate, in any material respect, the content of a document specified in CASS 10.2.1 R, a firm must ensure that any inaccuracy is corrected promptly and in any event no more than five business days after the change of circumstances arose.

10.1.12 G For the purpose of CASS 10.1.11R (2), an example of a change that would render a document inaccurate in a material respect is a change of institution identified pursuant to CASS 10.2.1R (2).

10.1.13 G A firm may hold in electronic form any document in its CASS resolution pack provided that it continues to be able to comply with CASS 10.1.7 R and CASS 10.1.11 R in respect of that document.

10.1.14 R The individual to whom responsibility for CASS operational oversight has been allocated under CASS 1A.3.1 R, CASS 1A.3.1A R or, as the case may be, CASS 1A.3.1CR (2), must report at least annually to the firm’s governing body in respect of compliance with the rules in this chapter.

10.1.15 G Individuals allocated functions relating to CASS operational oversight pursuant to CASS 1A.3.1 R, CASS 1A.3.1A R or, as the case may be, CASS 1A.3.1CR (2), are reminded that their responsibilities include compliance with the provisions in this chapter.

10.1.16 R A firm must notify the FCA in writing immediately if it has not complied with, or is unable to comply with, CASS 10.1.3 R.
10.2 Core content requirements

10.2.1 A firm must include within its CASS resolution pack:

(1) a master document containing information sufficient to retrieve each document in the firm’s CASS resolution pack;

(2) a document which identifies the institutions the firm has appointed (including through an appointed representative, tied agent, field representative or other agent):
   (a) in the case of client money, for the placement of money in accordance with CASS 7.13.3 R or to hold client money in accordance with CASS 7.14.2 R; and
   (b) in the case of safe custody assets, for the deposit of those assets in accordance with CASS 6.3.1 R;

(3) a document which identifies each appointed representative, tied agent, field representative or other agent of the firm which receives client money or safe custody assets in its capacity as the firm’s agent;

(4) a document which identifies:
   (a) each senior manager and director and any other individual and the nature of their responsibility within the firm who is critical or important to the performance of operational functions related to any of the obligations imposed on the firm by CASS 6 or CASS 7; and
   (b) the individual to whom responsibility for CASS operational oversight has been allocated under CASS 1A.3.1 R or, as the case may be, to whom the CASS operational oversight function has been allocated under CASS 1A.3.1A R;

(5) for each institution identified in CASS 10.2.1R (2), a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between that institution and the firm that relates to the holding of client money or safe custody assets including any written notification or acknowledgement letters sent or received pursuant to CASS 7.18;

(6) a document which:
   (a) identifies each member of the firm’s group involved in operational functions related to any obligations imposed on the firm under CASS 6 or CASS 7, including in the case of a member that is a nominee company, identification as such; and
(b) identifies each third party which the firm uses for the performance of operational functions related to any of the obligations imposed on the firm by CASS 6 or CASS 7; and

(c) for each group member identified in (a), the type of entity (such as branch, subsidiary and or nominee company) the group member is, its jurisdiction of incorporation if applicable, and a description of its related operational functions;

(7) a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between the firm and each third party identified in (6)(b);

(8) where the firm relies on a third party identified in (6)(b), a document which describes how to:

(a) gain access to relevant information held by that third party; and

(b) effect a transfer of any of the client money or safe custody assets held by the firm, but controlled by that third party; and

(9) a copy of the firm’s manual in which are recorded its procedures for the management, recording and transfer of the clients money and safe custody assets that it holds.

10.2.2 G For the purpose of CASS 10.2.1R(4), examples of individuals within the firm who are critical or important to the performance of operational functions include:

(1) those necessary to carry out both internal and external client money and safe custody asset reconciliations and record checks; and

(2) those in charge of client documentation for business involving client money and safe custody assets.

10.2.3 R For the purpose of CASS 10.2.1R(2), a firm must ensure that the document records:

(1) the full name of the individual institution in question;

(2) the postal and email address and telephone number of that institution; and

(3) the numbers of all accounts opened by that firm with that institution.
10.3 Existing records forming part of the CASS resolution pack

10.3.1 A firm must include, as applicable, within its CASS resolution pack the records required under:

1. CASS 6.3.2A R (safe custody assets: appropriateness of the firm’s selection of a third party);

2. CASS 6.3.6AR (third party rights over client assets);

3. CASS 6.4.3 R (firm’s use of safe custody assets);

4. CASS 6.6.2 R and CASS 6.6.3 R (safe custody assets held for each client);

4A. CASS 6.6.8 R (internal custody record checks, physical asset reconciliations and external custody reconciliations);

5. [deleted]

5A. SYSC 6.1.1 R (policy and procedures for carrying out record checks and reconciliations);

5B. CASS 7.13.14BR (policy for use of client bank accounts under CASS 7.13.13R(3A)(b));

6. CASS 7.13.25 R (client money: appropriateness of the firm’s selection of a third party);

7. CASS 7.15.2 R, CASS 7.15.3 R and CASS 7.15.5 R (client money held for each client);

7A. CASS 7.15.7 R (internal client money reconciliations and external client money reconciliations);

10. COBS 3.8.2 R (2)(a) and COBS 3.8.2 R (2)(c) (client categorisation); and

11. COBS 8.1.4 R or COBS 8A.1.9R (retail and professional client agreements).

10.3.2 CASS 10.3.1 R does not change the record keeping requirements of the rules referred to therein.
Chapter 11

Debt management client money chapter
This chapter (the debt management client money chapter) applies to a CASS debt management firm that receives or holds client money as set out in this chapter.

The requirements imposed on a CASS debt management firm that holds client money vary depending on whether a firm is classified as a CASS small debt management firm or a CASS large debt management firm in CASS 11.2.3 R (CASS debt management firm types). CASS 11.1.4 R to CASS 11.1.6 R indicate which rules in the debt management client money chapter apply to which category of firm.

The debt management client money chapter applies (to the extent indicated by CASS 11.1.4 R to CASS 11.1.6 R) to a CASS debt management firm, even if at the date of the determination or, as the case may be, the notification, referred to in CASS 11.2.4 R, the CASS debt management firm is not holding client money, provided that:

1. it held client money in the previous calendar year; or
2. it projects to hold client money in the current calendar year.

Subject to CASS 11.1.6 R, only the rules and guidance in the debt management client money chapter listed in the table below apply to CASS small debt management firms.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 11.1.1 R to CASS 11.1.4 R and CASS 11.1.6 R</td>
<td>Application</td>
</tr>
<tr>
<td>CASS 11.2.1 R to CASS 11.2.9 G</td>
<td>Firm classification</td>
</tr>
<tr>
<td>CASS 11.3.1 R to CASS 11.3.2 R and CASS 11.3.6 R</td>
<td>Responsibility for CASS operational oversight</td>
</tr>
<tr>
<td>CASS 11.4.1 G to CASS 11.4.4 G</td>
<td>Definition of client money and discharge of fiduciary duty</td>
</tr>
<tr>
<td>CASS 11.5.1 R and CASS 11.5.2 R</td>
<td>Organisational requirements</td>
</tr>
<tr>
<td>CASS 11.6.1 R and CASS 11.6.2 G</td>
<td>Statutory trust</td>
</tr>
<tr>
<td>CASS 11.7.1 G and CASS 11.7.5 G</td>
<td>Selecting an approved bank at which to hold client money</td>
</tr>
</tbody>
</table>
Reference | Rule
--- | ---
CASS 11.8.1 G to CASS 11.8.13 R | Client bank account acknowledgement letters
CASS 11.9.1 R to CASS 11.9.13 G | Segregation and the operation of client money accounts
CASS 11.10.1 R to CASS 11.10.7 G | Payments to creditors
CASS 11.11.1 R to CASS 11.11.12 R, CASS 11.11.30 R and CASS 11.11.32 G | Records, accounts and reconciliations
CASS 11.12.1 G to CASS 11.12.7 R | CASS 11 resolution pack
CASS 11.13.1 R to CASS 11.13.14 R | Client money distribution in the event of a failure of a firm or approved bank

**Application to CASS large debt management firms**

Subject to CASS 11.1.6 R, the rules and guidance in the debt management client money chapter apply to CASS large debt management firms, except where indicated otherwise in the relevant rule.

**Solicitors**

(1) An authorised professional firm regulated by the Law Society of England and Wales, the Law Society of Scotland or the Law Society of Northern Ireland that, with respect to its regulated activities, is subject to the following rules of its designated professional body, must comply with those rules and, if it does so, it will be deemed to comply with the debt management client money chapter.

(2) The relevant rules are:

(a) if the firm is regulated by the Law Society of England and Wales, the SRA Accounts Rules 2011;
(b) if the firm is regulated by the Law Society of Scotland, the Law Society of Scotland Practice Rules 2011; and
(c) if the firm is regulated by the Law Society of Northern Ireland, the Solicitors’ Accounts Regulations 1998.
11.2 Firm classification

11.2.1 (1) A CASS debt management firm must, once every year and by the time it is required to make a notification in accordance with CASS 11.2.4 R, determine whether it is a CASS large debt management firm or a CASS small debt management firm according to the amount of client money which it held during the previous year or, if it did not hold client money during the previous year, according to the amount of client money it projects to hold in the following year, in each case using the limits set out in the table in CASS 11.2.3 R.

(2) For the purpose of determining its 'CASS debt management firm type' in accordance with CASS 11.2.3 R, a CASS debt management firm must:

(a) if it currently holds client money, calculate the highest total amount of client money held during the previous calendar year ending on 31 December and use that figure to determine its 'CASS debt management firm type';

(b) if it did not hold client money in the previous calendar year but projects that it will do so in the current calendar year, calculate the highest total amount of client money that it projects that it will hold during that year and use that figure to determine its 'CASS debt management firm type'.

11.2.2 For the purpose of calculating the value of the total amounts of client money that it holds on any given day during a calendar year (in complying with CASS 11.2.1 R) a CASS debt management firm must base its calculation on accurate internal records of client money holdings. A CASS large debt management firm must do this using the internal reconciliations performed during the previous year that are prescribed in CASS 11.11.13 R. A CASS small debt management firm must use the records used in carrying out checks required of it under CASS 11.11.8 R.

11.2.3 CASS debt management firm types

<table>
<thead>
<tr>
<th>CASS debt management firm type</th>
<th>Highest total amount of client money held during the CASS debt management firm’s last calendar year or as the case may be that it projects that it will hold during the current calendar year</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS large debt management firm</td>
<td>An amount equal to or greater than £1 million</td>
</tr>
<tr>
<td>CASS small debt management firm</td>
<td>Less than £1 million</td>
</tr>
</tbody>
</table>
Notification

11.2.4 R Once every calendar year, a CASS debt management firm must notify the FCA, in writing, of the information in (1), (2) or (3), as applicable, and the information in (4), in each case no later than the day specified in (1) to (4):

(1) if it held client money in the previous calendar year, the highest total amount of client money held during the previous calendar year, notification of which must be made no later than the fifteenth business day of January; or

(2) if it did not hold client money in the previous calendar year but at any point up to the fifteenth business day of January the firm projects that it will do so in the current calendar year, the highest total amount of client money that the firm projects that it will hold during the current calendar year, notification of which must be made no later than the fifteenth business day of January; or

(3) in any other case, the highest total amount of client money that the firm projects that it will hold during the remainder of the current calendar year, notification of which must be made no later than the business day before the firm begins to hold client money; and

(4) in every case, of its 'CASS debt management firm type' classification, notification of which must be made at the same time the firm makes the notification under (1), (2) or (3).

11.2.5 R For the purpose of the annual notification in 11.2.4 R, a CASS debt management firm must apply the calculation rule in 11.2.2 R.

Option to be treated as a CASS large debt management firm

11.2.6 G 11.2.7 R provides a CASS debt management firm with the ability to opt in to a higher category of 'CASS debt management firm type'. This may be useful for a CASS debt management firm whose holding of client money is near the upper categorisation limit for a CASS small debt management firm.

11.2.7 R (1) Notwithstanding 11.2.3 R, provided that the conditions in (2) are satisfied, a CASS debt management firm that would otherwise be classified as a CASS small debt management firm under the limits provided for in 11.2.3 R may elect to be treated as a CASS large debt management firm.

(2) The conditions to which (1) refers are that in either case:

(a) the election is notified to the FCA in writing;

(b) the notification in accordance with (a) is made at least one week before the election is intended to take effect; and

(c) the FCA has not objected.

Effective date of firm type

11.2.8 R A firm's 'CASS debt management firm type' and any change to it takes effect:
(1) if the firm notifies the FCA in accordance with CASS 11.2.4 R (1) or CASS 11.2.4 R (2), on 1 February following the notification; or

(2) if the firm notifies the FCA in accordance with CASS 11.2.4 R (3), on the day it begins to hold client money; or

(3) if the firm makes an election under CASS 11.2.7 R and provided the conditions in CASS 11.2.7 R (2) are satisfied, on the day the notification made under CASS 11.2.7 R (2)(a) states that the election is intended to take effect.

11.2.9 G Any written notification made to the FCA under this chapter should be marked for the attention of: "Debt Management Client Assets Firm Classification".
11.3 Responsibility for CASS operational oversight

CASS small debt management firm other than a not-for-profit debt advice body

11.3.1 R

(1) A CASS small debt management firm, other than a not-for-profit debt advice body, must allocate to a director or senior manager responsibility for:

   (a) oversight of the firm’s operational compliance with CASS 11;

   (b) reporting to the firm’s governing body in respect of that oversight; and

   (c) completing and submitting a CCR005 return in accordance with SUP 16.12.29CR.

(2) [deleted]

11.3.1A G

CASS 11.3.3G(5) to (11) also apply to a CASS small debt management firm that is an SMCR firm and the function in CASS 11.3.1R. However:

(1) the function in CASS 11.3.1R is not a separate FCA certification function; and

(2) the person performing that function will not necessarily be subject to the employee certification regime described in SYSC 27 (Senior managers and certification regime: Certification regime).

CASS small debt management firm that is a not-for-profit debt advice body

11.3.2 R

A CASS small debt management firm that is a not-for-profit debt advice body must allocate to a director or senior manager:

(1) oversight of the firm’s operational compliance with CASS 11;

(2) reporting to the firm’s governing body in respect of that oversight; and

(3) completing and submitting a CCR005 return in accordance with SUP 16.12.29CR.

11.3.2A G

(1) CASS 11.3.3G(5) to (11) do not apply to a CASS small debt management firm that is a not-for-profit debt advice body. This is
because neither \( \text{SYSC 24} \) (Senior managers and certification regime: Allocation of prescribed responsibilities) nor \( \text{SYSC 26} \) (Senior managers and certification regime: Overall and local responsibility) apply to it.

(2) It will not have any SMF managers as no designated senior management functions apply to it.

(3) The function in \( \text{CASS 11.3.2R} \) is not a separate FCA certification function and the person performing that function will not necessarily be subject to the employee certification regime described in \( \text{SYSC 27} \) (Senior managers and certification regime: Certification Regime).

### CASS large debt management firms

11.3.3

(1) [deleted]

(2) As a consequence of \( \text{CASS 11.3.4R} \), in a CASS large debt management firm (including a not-for-profit debt advice body fitting into that category) the function described in \( \text{CASS 11.3.4R} \) is required to be discharged by a director or senior manager.

(3) [deleted]

(4) [deleted]

(4A) For an SMCR firm, the function in \( \text{CASS 11.3.4R} \) is not a separate controlled function and performing that function does not require approval as an approved person. Paragraphs (5) to (11) describe how \( \text{CASS 11.3.4R} \) applies to such firms.

(4B) There are three elements of the regime for SMCR firms that are particularly relevant to \( \text{CASS 11.3} \), although they do not all apply to all SMCR firms:

(a) a firm’s obligation to allocate certain responsibilities to its SMF managers (see \( \text{SYSC 24} \) (Senior managers and certification regime: Allocation of prescribed responsibilities));

(b) a firm’s obligation to ensure that one or more of its SMF managers have overall responsibility for each of its activities, business areas and management functions (see \( \text{SYSC 26} \) (Senior managers and certification regime: Overall and local responsibility)); and

(c) the certification regime (the certification regime is explained in \( \text{SYSC 27} \) (Senior managers and certification regime: Certification regime) and \( \text{SYSC TP 7} \) (Bank of England and Financial Services Act 2016: Certification and regulatory references) explains that the certification regime comes into force sometime after other parts of the senior managers and certification regime).

(5) Paragraphs (6) to (9) explain how \( \text{CASS 11.3.4R} \) applies to an SMCR firm to which \( \text{SYSC 24} \) and \( \text{SYSC 26} \) apply.

(6) The SMCR firm must allocate responsibility for the firm’s compliance with CASS to one of its SMF managers (see \( \text{SYSC 24.2.1R} \)). That responsibility is an “FCA-prescribed senior management responsibility”. The full list of FCA-prescribed senior management responsibilities is in the table in \( \text{SYSC 24.2.6R} \).
(7) Although the CASS function in SYSC 24.2.1R is different from the function in CASS 11.3.4R, the SMCR firm may allocate the function in CASS 11.3.4R to the SMF manager in (6).

(8) The SMCR firm may allocate the CASS FCA-prescribed senior management responsibility described in (6) to an SMF manager who does not perform any other function coming within the FCA regime for SMF managers in SMCR firms. See SUP 10C.7 (Other overall responsibility function (SMF18)) and SUP 10C.8.1R (Other local responsibility function (SMF22)) for details.

(9) The SMCR firm may choose to allocate the function in CASS 11.3.4R to someone who is not an approved person and SMF manager. If so:

(a) that person will be subject to the employee certification regime described in SYSC 27 (Senior managers and certification regime: Certification regime);

(b) that person will be subject to supervision by the SMF manager in (6); and

(c) the function in CASS 11.3.4R will be the CASS oversight FCA certification function in SYSC 27.8.1R.

(10) In relation to an SMCR firm to which SYSC 24 applies but SYSC 26 does not apply the guidance in paragraphs (6), (7) and (9) applies, but the guidance in paragraph (8) does not apply.

(11) (a) The position of an SMCR firm to which neither SYSC 24 nor SYSC 26 apply is slightly different.

(b) The firm may choose to allocate the function in CASS 11.3.4R to an SMF manager.

(c) The firm may instead choose to allocate the CASS function to someone who is not an SMF manager.

(d) Where (c) applies, the person performing the function in CASS 11.3.4R will fall into the certification regime. The function in CASS 1A.3.1AR will be the CASS oversight FCA certification function in SYSC 27.8.1R.

(e) A not-for-profit debt advice body will not have any SMF managers as no controlled functions apply to it.

11.3.4 A CASS large debt management firm must allocate to a director or senior manager the function of:

(1) oversight of the operational effectiveness of that CASS debt management firm's systems and controls that are designed to achieve compliance with CASS 11;

(2) reporting to the CASS debt management firm's governing body in respect of that oversight; and

(3) completing and submitting a CCR005 return to the FCA in accordance with SUP 16.12.29CR.

11.3.5 [deleted]
11.3.5A  [deleted]

Record of responsibility for CASS operational oversight

11.3.6  R

(1) Subject to (2), a CASS debt management firm must make and retain an appropriate record of the person to whom responsibility is allocated in accordance with, as applicable, CASS 11.3.1 R, CASS 11.3.2 R, and CASS 11.3.4 R.

(2) A CASS small debt management firm must make and retain such a record only where it allocates responsibility to a person other than the person in that firm who performs the compliance oversight function.

(3) A CASS debt management firm must ensure that a record made under this rule is retained for a period of five years after it is made.
11.4 Definition of client money and the discharge of fiduciary duty

11.4.1 ■ CASS 11 provides important safeguards for the protection of client money held by CASS debt management firms that sit alongside the fiduciary duty owed by firms in relation to client money. ■ CASS 11.4.2 R to ■ CASS 11.4.4 G provide guidance and rules for when money ceases to be client money for the purposes of both those rules and of the fiduciary duty which CASS debt management firms owe to clients in relation to client money.

11.4.2 ■ Money ceases to be client money if:

(1) it is paid to the client, or a duly authorised representative of the client; or

(2) it is:
   (a) paid to a third party on the instruction of the client, or with the specific consent of the client; or
   (b) paid to a third party further to an obligation on the firm under any applicable law; or

(3) it is paid into an account of the client (not being an account which is also in the name of the firm) on the instruction, or with the specific consent, of the client;

(4) it is due and payable to the firm for its own account;

(5) it is paid to the firm as an excess in the client bank account (see ■ CASS 11.11.12 R (2) and ■ CASS 11.11.23 R (3)).

11.4.3 ■ When a CASS debt management firm draws a cheque or other payable order to discharge its fiduciary duty to the client, it must continue to treat the sum concerned as client money until the cheque or order is presented and paid.

11.4.4 ■ Money is not client money when it is properly due and payable to the firm for its own account. The circumstances in which money may become due and payable to the firm could include when fees have become due and payable from the client to the firm under the agreement between the client and the firm.
11.5 Organisational requirements

11.5.1 A CASS debt management firm must, when holding client money, make adequate arrangements to safeguard the client's rights and prevent the use of client money for its own account.

11.5.2 A CASS debt management firm must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of client money, or of rights in connection with client money, as a result of misuse of client money, fraud, poor administration, inadequate record-keeping or negligence.
11.6 Statutory trust

11.6.1 R A CASS debt management firm receives and holds client money as trustee on the following terms:

1. for the purposes and on the terms of the debt management client money rules and the debt management client money distribution rules;

2. subject to (3), for the clients for whom that money is held, according to their respective interests in it;

3. on failure of the CASS debt management firm, for the payment of the costs properly attributable to the distribution of the client money in accordance with (2); and

4. after all valid claims and costs under (2) and (3) have been met, for the CASS debt management firm itself.

11.6.2 G Section 137B(1) of the Act provides that rules may make provisions which result in client money being held by a firm on trust. ■ CASS 11.6.1 R creates such a rule in relation to client money held by a CASS debt management firm. The consequence of this rule is there is a fiduciary relationship between a CASS debt management firm and its client, under which client money is in the legal ownership of the firm but remains in the beneficial ownership of the client. In the event of failure of the CASS debt management firm, costs relating to the distribution of client money may have to be borne by the trust.
### 11.7 Selecting an approved bank at which to hold client money

11.7.1 A CASS debt management firm owes a duty of care as a trustee to its clients in relation to client money and has to exercise that duty of care in deciding where to hold client money.

11.7.2 Before a CASS large debt management firm opens a client bank account and as often as is appropriate on a continuing basis (such frequency being no less than once in each financial year) it must take reasonable steps to establish that it is appropriate for the firm to hold client money at the approved bank concerned.

11.7.3 A CASS large debt management firm must consider the risks associated with holding all client money with one approved bank and should consider whether it would be appropriate to hold client money in client bank accounts at a number of different approved banks.

11.7.4 In complying with CASS 11.7.3 R a CASS large debt management firm should consider as appropriate, together with any other relevant matters:

1. the amount of client money held by the firm;
2. the amount of client money the firm anticipates holding at the approved bank; and
3. the credit worthiness of the approved bank.

11.7.5 A CASS small debt management firm can demonstrate compliance with CASS 11.7.1 G by checking that the person it proposes to hold client money with is an approved bank and that nothing has come to the firm's attention to cause it to believe that such person is not an appropriate place at which to hold client money.

11.7.6 A CASS large debt management firm must make a record of the grounds upon which it satisfies itself as to the appropriateness of its selection of an approved bank. The firm must make the record on the date it makes the selection and must keep it from the date of such selection until five years after the firm ceases to use the approved bank to hold client money.
The main purposes of a client bank account acknowledgement letter are:

1. to put the approved bank on notice of a firm’s clients’ interests in client money that has been deposited with such person;

2. to ensure that the client bank account has been opened in accordance with CASS 11.9.3 R, and is distinguished from any account containing money that belongs to the firm; and

3. to ensure that the approved bank understands and agrees that it will not have any recourse or right against money standing to the credit of the client bank account, in respect of any liability of the firm to such person (or person connected to such person).

For each client bank account, a CASS debt management firm must, in accordance with CASS 11.8.4 R, complete and sign a client bank account acknowledgement letter clearly identifying the client bank account, and send it to the approved bank with whom the client bank account is, or will be, opened, requesting the bank to acknowledge and agree to the terms of the letter by countersigning it and returning it to the firm.

Subject to CASS 11.8.6 R, a CASS debt management firm must not hold or receive any client money in or into a client bank account unless it has received a duly countersigned client bank account acknowledgement letter from the approved bank that has not been inappropriately redrafted and clearly identifies the client bank account.

In drafting client bank account acknowledgement letters under CASS 11.8.2 R a CASS debt management firm is required to use the relevant template in CASS 11 Annex 1 R.

When completing a client bank account acknowledgement letter under CASS 11.8.2 R (1) a CASS debt management firm:

1. must not amend any of the acknowledgement letter fixed text;

2. subject to (3), must ensure the acknowledgement letter variable text is removed, included or amended as appropriate; and
must not amend any of the **acknowledgement letter variable text** in a way that would alter or otherwise change the meaning of the **acknowledgement letter fixed text**.

11.8.5  
CASS 11 Annex 2 contains guidance on using the template **client bank account acknowledgement letters**, including on when and how firms should amend the **acknowledgement letter variable text** that is in square brackets.

11.8.6  
(1) If, on countersigning and returning the **client bank account acknowledgement letter** to a **firm**, the relevant **approved bank** has also:

   (a) made amendments to any of the **acknowledgement letter fixed text**; or

   (b) made amendments to any of the **acknowledgement letter variable text** in a way that would alter or otherwise change the meaning of the **acknowledgement letter fixed text**;

   the **client bank account acknowledgement letter** will have been inappropriately redrafted for the purposes of **CASS 11.8.2 R (2)**.

   (2) Amendments made to the **acknowledgement letter variable text**, in the **client bank account acknowledgement letter** returned to a **firm** by the relevant **approved bank**, will not have the result that the letter has been inappropriately redrafted if those amendments do not affect the meaning of the **acknowledgement letter fixed text**, have been specifically agreed with the firm and do not cause the **client bank account acknowledgement letter** to be inaccurate.

11.8.7  
A CASS debt management firm must use reasonable endeavours to ensure that any individual that has countersigned a **client bank account acknowledgement letter** that has been returned to the **firm** was authorised to countersign the letter on behalf of the relevant **approved bank**.

11.8.8  
A CASS debt management firm must retain each countersigned **client bank account acknowledgement letter** it receives from the date of receipt until the expiry of a period of five years starting on the date on which the last **client bank account** to which the acknowledgment letter relates is closed.

11.8.9  
A CASS debt management firm must also retain any other documentation or evidence it believes is necessary to demonstrate that it has complied with each of the applicable requirements in this section (such as any evidence it has obtained to ensure that the individual that has countersigned a **client bank account acknowledgement letter** that has been returned to the **firm** was authorised to countersign the letter on behalf of the relevant **approved bank**).
11.8.10 A CASS debt management firm must, periodically (at least annually, and whenever it becomes aware that something referred to in a client bank account acknowledgement letter has changed) review each of its countersigned client bank account acknowledgement letters to ensure that they remain accurate.

11.8.11 Whenever a CASS debt management firm finds a countersigned client bank account acknowledgement letter to contain an inaccuracy, the firm must promptly draw up a new replacement client bank account acknowledgement letter under §CASS 11.8.2 R and ensure that the new client bank account acknowledgement letter is duly countersigned and returned by the relevant approved bank.

11.8.12 Under §CASS 11.8.10 R, a CASS debt management firm should obtain a replacement client bank account acknowledgement letter whenever:

1. there has been a change in any of the parties’ names or addresses or a change in any of the details of the relevant account(s) as set out in the letter; or

2. it becomes aware of an error or misspelling in the letter.

11.8.13 If a CASS debt management firm’s client bank account is transferred to another approved bank, the firm must promptly draw up a new client bank account acknowledgement letter under §CASS 11.8.2 R and ensure that the new client bank account acknowledgement letter is duly countersigned and returned by the relevant approved bank within 20 business days of the firm sending it to that person.
11.9 Segregation and the operation of client money accounts

Requirement to segregate

11.9.1 A CASS debt management firm must take all reasonable steps to ensure that all client money it receives is paid directly into a client bank account at an approved bank, rather than being first received into the firm's own account and then segregated.

11.9.2 A CASS debt management firm should arrange for clients and third parties to make transfers and payments of any money which will be client money directly into the firm's client bank accounts.

11.9.3 A CASS debt management firm must ensure that client money is held in a client bank account at one or more approved banks.

11.9.4 Cheques received by a CASS debt management firm, made out to the firm, representing client money or a mixed remittance must be treated as client money from receipt by the firm.

11.9.5 Where a CASS debt management firm receives client money in the form of cash, a cheque or other payable order, it must:

1. Pay the money into a client bank account in accordance with CASS 11.9.1 R promptly and no later than on the business day after it receives the money;

2. If the firm holds the money overnight, hold it in a secure location in line with Principle 10; and

3. Record the receipt of the money in the firm's books and records under the applicable requirements of CASS 11.11 (Records, accounts and reconciliations).
## Mixed remittance

### 11.9.6

If a CASS debt management firm receives a mixed remittance it must:

1. pay the full sum into a client bank account promptly and in accordance with CASS 11.9.1 R to CASS 11.9.5 R; and
2. no later than one business day after the payment of the mixed remittance into the client bank account has cleared, pay the money that is not client money out of the client bank account.

## Allocation of client money receipts

### 11.9.7

1. A CASS debt management firm must allocate in its books and records any client money it receives to an individual client promptly and, in any case, no later than five business days following the receipt.

2. Pending a CASS debt management firm’s allocation of a client money receipt to an individual client under (1), it must record the received client money in its books and records as “unallocated client money”.

### 11.9.8

If a CASS debt management firm receives money (either in a client bank account or an account of its own) which it is unable immediately to identify as client money or its own money, it must:

1. take all necessary steps to identify the money as either client money or its own money;

2. if it considers it reasonably prudent to do so, given the risk that client money may not be adequately protected if it is not treated as such, treat the entire balance of money as client money and record the money in its books and records as “unidentified client money” while it performs the necessary steps under (1).

### 11.9.9

If a CASS debt management firm is unable to identify money that it has received as either client money or its own money under CASS 11.9.8 R (1), it should consider whether it would be appropriate to return the money to the person who sent it (or, if that is not possible, to the source from where it was received, for example, the bank). A firm should have regard to its fiduciary duties when considering such matters.

## Money received by appointed representatives, tied agents, field representatives and other agents

### 11.9.10

A CASS debt management firm must ensure that client money received by its appointed representatives, field representatives or other agents is:

1. received directly into a client bank account of the firm; or

2. if it is received in the form of a cheque or other payable order:
   a. paid into a client bank account of the CASS debt management firm promptly and, in any event, no later than the next business day after receipt; or
(b) forwarded to the firm or, in the case of a field representative, forwarded to a specified business address of the CASS debt management firm, to ensure that the money arrives at the specified business address promptly and, in any event, no later than the close of the third business day following the receipt of the money from the client; or

(3) if it is received in the form of cash, paid into a client bank account of the CASS debt management firm promptly and, in any event, no later than the next business day after receipt.

**Interest**

11.9.11 R A CASS debt management firm must pay a client any interest earned on client money held for that client.

**Returning money to clients**

11.9.12 R A CASS debt management firm must, on receipt of a written request to withdraw from a debt management plan, promptly return to the client any client money held by it for the client.

11.9.13 G The FCA would expect compliance with the requirement in 11.9.12 R to return client money promptly to require client money to be returned to a client within five business days of the date on which a client’s withdrawal from a debt management plan takes effect.
11.10 Payments to creditors

11.10.1 R Where a CASS debt management firm receives client money from a client in relation to a debt management plan or for the purpose of distribution to the client’s creditors, the firm must pay that money to creditors as soon as reasonably practicable, save in the circumstances in ■ CASS 11.10.3 R.

11.10.2 G In the FCA’s view, the payment to creditors under ■ CASS 11.10.1 R should normally be within five business days of the receipt of cleared funds.

11.10.3 R The circumstances referred to in ■ CASS 11.10.1 R are:

(1) the contract between the client and the CASS debt management firm expressly provides that client money might be held for more than five business days without being distributed to creditors;

(2) the existence of such a term expressly providing that client money might be held for more than five business days without being distributed to creditors has been separately brought to the attention of the client prior to his entering into the contract; and

(3) the CASS debt management firm has explained to the client the risks and implications, if any, of payment to creditors being delayed prior to the entry into the contract.

11.10.4 R On each occasion that a CASS debt management firm receives client money from a client in relation to a debt management plan, or for the purpose of distribution to the client’s creditors, and it is proposed not to make a client’s payment to creditors within five business days of receipt of the client money in the circumstances described in ■ CASS 11.10.3 R (1), it must:

(1) as soon as reasonably practicable and within the five business day period, inform the client’s creditors of the fact that it has received client money from the client for the purpose of distribution to his or her creditors and that it will not distribute that client money to the creditors within the five business-day period; and

(2) perform daily reconciliations of the money held for the client concerned in accordance with the provisions of ■ CASS 11.11.

11.10.5 R On each occasion a CASS debt management firm receives client money from a client in relation to a debt management plan, or for the purpose of distribution to the client’s creditors, and is unable for any reason other than
in the circumstances described in CASS 11.10.3 R (1) to make a payment to the client’s creditors within five business days of receipt, it must:

1. inform the client of the delay and the reason for the delay;
2. inform the client of the risks and implications of the late payments;
3. inform the client’s creditors of this delay as soon as reasonably practicable and within the period of five business days of the receipt of the relevant client money; and
4. perform daily checks of its records of the money held for the client concerned in accordance with the provisions of CASS 11.11.

11.10.6 R

(1) Subject to (2), where a CASS debt management firm receives client money from a client in relation to a debt management plan or for the purpose of distribution to the client’s creditors, and it fails to pay that money to creditors as soon as reasonably practicable following its receipt (see CASS 11.10.1 R and CASS 11.10.2 G), it must put the client into the financial position he would have been in had the delay not occurred.

(2) Paragraph (1) does not apply in the circumstances described in CASS 11.10.3 R or where the delay is due to circumstances beyond the firm’s control.

11.10.7 G

Putting a client into the position he would have been in had the delay not occurred under CASS 11.10.6 R should include paying to the client a sum equivalent to the amount of any additional interest which would not have accrued but for the delay and any default charges that have been applied to the account as a result of the delay.
11.11 Records, accounts and reconciliations

**Records and accounts**

11.11.1 **R** A CASS debt management firm must keep such records and accounts as are necessary to enable it, at any time and without delay, to distinguish client money held for one client from client money held for any other client, and from its own money.

11.11.2 **G** In accordance with ■ CASS 11.11.1 R, a CASS debt management firm must maintain internal records and accounts of the client money it holds (for example, a cash book). These internal records are separate to any external records it has obtained from approved banks with whom it has deposited client money (for example, bank statements).

11.11.3 **R** A CASS debt management firm must maintain its records and accounts in a way that ensures their accuracy and, in particular, their correspondence to the client money held for individual clients.

11.11.4 **R** A CASS debt management firm must maintain up-to-date records that detail all payments to, from, or made on behalf of, clients and written and oral contact with clients and their creditors.

**Policies and procedures**

11.11.5 **G** CASS debt management firms are reminded that they must, under ■ SYSC 6.1.1 R, establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the firm with the rules in this chapter.

**Checks and reconciliations of internal records**

11.11.6 **G** So that a CASS debt management firm may check that it has sufficient money segregated in its client bank accounts to meet its obligations to clients for whom it is undertaking debt management activity, it is required periodically to carry out reconciliations of its internal records and accounts to check that the total amount of client money that it should have segregated in client bank accounts is equal to the total amount of client money it actually has segregated in client bank accounts. ■ CASS 11.11.8 R to ■ CASS 11.11.23 R provide rules that the different types of CASS debt management firm are obliged to follow to meet this obligation.
Checks of internal records: CASS small debt management firm

11.11.7 [G] For a CASS small debt management firm to demonstrate it has maintained its records and accounts in a way envisaged by CASS 11.11.3 R, it should carry out checks of its internal records and accounts that are reasonable and proportionate to its business. CASS 11.11.8 R provides a rule that a CASS small debt management firm is obliged to follow to meet this obligation.

11.11.8 [R] A CASS small debt management firm must undertake periodic checks of its internal accounts and records to ensure that the amount of money it holds in its client bank accounts is equal to the amount of client money that should be segregated under CASS 11.9.

11.11.9 [R] In carrying out the checks required by CASS 11.11.8 R a CASS small debt management firm must use the values contained in its internal records and ledgers (for example, its cash book or other internal accounting records), rather than the values contained in the records it has obtained from approved banks with whom it has deposited client money (for example, bank statements).

11.11.10 [G] The checks that a CASS small debt management firm is required to undertake under CASS 11.11.8 R include checking that its internal records and accounts accurately record the balances of client money held in respect of individual clients, and that the aggregate of those individual client money balances are equal to the total client money segregated in its client bank accounts. In undertaking the comparison between the internal records of balances of client money and the client money segregated in client bank accounts, a firm should use the previous day’s closing client money balances and should compare those with other records relating to the same day. In determining an appropriate frequency for its record checks, a firm should consider the volume and frequency of transactions in its client bank accounts.

11.11.11 [G] In seeking to comply with its obligation to carry out checks on its internal records and accounts, a CASS small debt management firm may choose to follow the steps specifically required of CASS large debt management firms in undertaking a CASS large debt management firm internal client money reconciliation and CASS large debt management firm external client money reconciliation. A CASS small debt management firm which follows that procedure is likely to be regarded by the FCA as having fulfilled its obligation under CASS 11.11.8 R.

CASS small debt management firms: remedying discrepancies

11.11.12 [R] Where the check of its internal records and accounts that a CASS small debt management firm is required to undertake under CASS 11.11.8 R reveals a difference between the amount of money it holds in its client bank accounts
and the amount of client money that should be held and segregated under CASS 11.9, a CASS small debt management firm must:

(1) ensure that any shortfall in the amount held in its client bank accounts as compared to the amount that should be held there is made up by a prompt payment into the firm's client bank accounts;

(2) ensure that any excess in the amount held in its client bank accounts as compared to the amount that should be held there is promptly withdrawn from its client bank accounts; and

(3) ensure that any correction of a shortfall or excess of the kind referred to in (1) and (2) is carried out, at the latest, before the end of the business day following the day on which difference was discovered.

CASS large debt management firms internal client money reconciliation

A CASS large debt management firm must, as regularly as is necessary, but no less often than every five business days, carry out a CASS large debt management firm internal client money reconciliation.

A CASS large debt management firm internal client money reconciliation requires a CASS large debt management firm to check whether its client money resource, as determined by CASS 11.11.16 R, on the previous business day, was at least equal to the client money requirement, as determined by CASS 11.11.17 R as at the close of business on that day.

In carrying out a CASS large debt management firm internal client money reconciliation, a CASS large debt management firm must use the values contained in its internal records and ledgers (for example, its cash book or other internal accounting records), rather than the values contained in the records it has obtained from approved banks with whom it has deposited client money (for example, bank statements).

Calculating the client money resource

The client money resource for client money held in accordance with CASS 11.11.14 R is the aggregate of the balances on the firm's client bank accounts, as at the close of business on the previous business day.

Calculating the client money requirement

(1) The client money requirement is the sum of:

(a) the aggregate of all individual client balances calculated in accordance with CASS 11.11.21 R and CASS 11.11.22 R;

(b) the amount of any unallocated client money under CASS 11.9.7 R;

(c) the amount of any unidentified client money under CASS 11.9.8 R; and

(d) any other amounts of client money included in the calculation under (2).
(2) For the purposes of (1)(d), the CASS debt management firm must consider whether there are amounts of client money, other than those in (1)(a) to (c), to which the requirement to segregate applies and that it is appropriate to include in the calculation of its client money requirement and, if so, adjust the calculation accordingly.

11.11.18 The **client money** requirement calculated in accordance with ■CASS 11.11.17 R should represent the total amount of **client money** a CASS debt management firm is required to have segregated in client bank accounts under the debt management client money chapter.

11.11.19 Firms are reminded that, under ■CASS 11.4.3 R, if a firm has drawn any cheques, or other payable orders, to discharge its fiduciary duty to its clients (for example, to return client money to the client or distribute it to the client’s creditors), the sum concerned must be included in the firm’s calculation of its client money requirement until the cheque or order is presented and paid.

11.11.20 The following **guidance** applies where a CASS debt management firm receives **client money** in the form of cash, a cheque or other payable order:

1. In carrying out the calculation of the client money requirement, a CASS debt management firm may initially include the amount of client money received as cash, cheques or payment orders that has not yet been deposited in a client bank account in line with ■CASS 11.9.5 R. If it does so, the firm should ensure, before finalising the calculation, that it deducts these amounts to avoid them giving rise to a difference between the firm’s client money requirement and client money resource.

2. In carrying out the calculation of the client money requirement, a CASS debt management firm may alternatively exclude the amount of client money received as cash, cheques or payment orders that has not yet been deposited in a client bank account in line with ■CASS 11.9.5 R. If it does so, the firm is reminded that it must separately record the receipt of the money in the firm’s books and records under ■CASS 11.9.5 R (3).

3. A CASS debt management firm that receives client money in the form of cash, a cheque or other payable order is reminded that it must pay that money into a client bank account promptly and no later than on the business day after it receives the money (see ■CASS 11.9.5 R).

11.11.21 The individual **client** balance for each **client** must be calculated as follows:

1. the amount paid by the client to the CASS debt management firm; plus

2. the amount of any interest, and any other sums, due to the client; less:

3. the aggregate of the amount of money:
(a) paid back to that client; and
(b) due and payable by the client to the CASS debt management firm; and
(c) paid out to a third party for, or on behalf of, that client.

Where the individual client balance calculated in respect of an individual client under CASS 11.11.21 R is a negative figure (because the amounts paid by or due to a client under CASS 11.11.21 R (1) and CASS 11.11.21 R (2) are less than the amounts paid out or due and payable by that client under CASS 11.11.21 R (3), that individual client balance should be treated as zero for the purposes of the calculation of the firm’s client money requirement in CASS 11.11.17 R.

Large debt management firms: reconciliation differences and discrepancies

When a CASS large debt management firm internal client money reconciliation reveals a difference between the client money resource and its client money requirement a CASS large debt management firm must:

(1) identify the reason for the difference;

(2) ensure that any shortfall in the amount of the client money resource as compared to the amount of the client money requirement is made up by a payment into the firm’s client bank accounts by the end of the business day following the day on which difference was discovered; and

(3) ensure that any excess in the amount of the client money resource as compared to the amount of the client money requirement is withdrawn from the firm’s client bank accounts by the end of the business day following the day on which the difference was discovered.

CASS large debt management firm external client money reconciliation

The purpose of the reconciliation process required by CASS 11.11.25 R is to ensure the accuracy of a firm’s internal accounts and records against those of any third parties by whom client money is held.

A CASS large debt management firm should perform a CASS large debt management firm external client money reconciliation:

(1) as regularly as is necessary; and

(2) no less frequently than the CASS large debt management firm internal client money reconciliations; and

(3) as soon as reasonably practicable after the date to which the reconciliation relates;

to ensure the accuracy of its internal accounts and records against those of approved banks with whom client money is deposited.
A CASS large debt management firm external client money reconciliation requires a CASS large debt management firm to conduct a reconciliation between its internal accounts and records and those of any approved banks by whom client money is held.

The FCA expects a CASS large debt management firm which carries out transactions for its clients on a daily basis to carry out a CASS large debt management firm external client money reconciliation on a daily basis.

When any discrepancy is revealed by a CASS large debt management firm external client money reconciliation, a CASS large debt management firm must identify the reason for the discrepancy and correct it as soon as possible, unless the discrepancy arises solely as a result of timing differences between the accounting systems of the party providing the statement or confirmation and that of the firm.

While a CASS large debt management firm is unable to resolve a discrepancy arising from the CASS large debt management firm external client money reconciliation, and one record or a set of records examined by the firm during the reconciliation process indicates that there is a need to have greater amount of client money than is in fact the case, the firm must assume, until the matter is finally resolved, that the record or set of records is accurate and pay its own money into a relevant account.

Notification requirements

A CASS debt management firm must inform the FCA in writing without delay if:

1. its internal records and accounts of client money are materially out of date or materially inaccurate so that the firm is no longer able to comply with the requirements in CASS 11.11.1 R to CASS 11.11.4 R; or
2. it becomes aware that, at any time in the preceding 12 months, the amount of client money segregated in its client bank accounts materially differed from the total aggregate amount of client money the firm was required to segregate in client bank accounts in accordance with the segregation requirements in CASS 11.9.

A CASS large debt management firm must inform the FCA in writing without delay if:

1. after having carried out a CASS large debt management firm internal client money reconciliation in accordance with CASS 11.11.13 R it will be unable to, or materially fails to, pay any shortfall into (or withdraw any excess from) a client bank account so that the firm is unable to comply with CASS 11.11.23 R;
2. after having carried out a CASS large debt management firm external client money reconciliation in accordance with CASS 11.11.25 R it will
be unable to, or materially fails to, identify and correct any discrepancies in accordance with CASS 11.11.28 R;

(3) it will be unable to or materially fails to conduct a CASS large debt management firm internal client money reconciliation in compliance with CASS 11.11.13 R; or

(4) it will be unable to or materially fails to conduct a CASS large debt management firm external client money reconciliation in compliance with CASS 11.11.25 R.

11.11.32 CASS debt management firms are also reminded of their obligation to notify the appropriate regulator of a significant breach of a rule under SUP 15.3.11 R.
The purpose of the CASS 11 resolution pack is to ensure that a firm maintains and is able to retrieve information that would, in the event of its insolvency, assist an insolvency practitioner in dealing with client money in a timely manner.

A CASS debt management firm which holds client money must maintain at all times and be able to retrieve, in the manner described in this section, a CASS 11 resolution pack.

A CASS debt management firm must include within its CASS 11 resolution pack all those documents referred to in CASS 11.12.4 R.

The documents in CASS 11.12.3 R that a CASS debt management firm must include within its CASS 11 resolution pack are:

1. A master document containing information sufficient to retrieve each document in the firm's CASS 11 resolution pack;

2. A document which identifies all the approved banks with whom client money may be deposited;

3. A document which identifies each appointed representative, field representative or other agent of the firm which may receive client money in its capacity as the firm's agent;

4. A document which identifies each senior manager and director and any other individual and the nature of their responsibility within the firm who is critical or important to the performance of operational functions related to any of the obligations imposed on the firm under the debt management client money rules;

5. For all approved banks identified in (2) the written client bank account acknowledgement letters sent and received in accordance with CASS 11.8.2 R; and
(6) records relating to the internal and external client money checks it is required to carry out under CASS 11.11.

11.12.5 **In relation to each document in a CASS debt management firm’s CASS 11 resolution pack a firm must:**

1. put in place adequate arrangements to ensure that an administrator, receiver, trustee, liquidator or analogous officer appointed in respect of it or any material part of its property is able to retrieve each document as soon as practicable and, in any event, within 48 hours of that officer’s appointment; and

2. ensure that it is able to retrieve each document as soon as practicable and, in any event, within 48 hours where it has taken a decision to do so or as a result of an FCA request.

11.12.6 **(1)** A CASS debt management firm must ensure that it reviews the content of its CASS 11 resolution pack on an ongoing basis to ensure that it remains accurate.

**(2)** In relation to any change of circumstances that has the effect of rendering inaccurate, in any material respect, the content of a document specified in CASS 11.12.4 R, a firm must ensure that any inaccuracy is corrected promptly and in any event no more than five business days after the change of circumstances arose.

11.12.7 **A CASS debt management firm must notify the FCA in writing immediately if it has not complied with, or is unable to comply with, CASS 11.12.2 R and CASS 11.12.6 R.**
11.13 Client money distribution in the event of a failure of a firm or approved bank

Application

This section (the debt management client money distribution rules) applies to a CASS debt management firm that holds client money which is subject to the debt management client money rules when a primary pooling event or a secondary pooling event occurs.

Purpose

The debt management client money distribution rules seek, in the event of the failure of a CASS debt management firm or of an approved bank at which the CASS debt management firm holds client money, to protect client money and to facilitate the timely payment of sums to creditors or the timely return of client money to clients.

Failure of a CASS debt management firm: primary pooling event

A primary pooling event occurs:

(1) on the failure of a CASS debt management firm;

(2) on the vesting of assets in a trustee in accordance with an 'assets requirement' imposed under section 55P(1)(b) or (c) (as the case may be) of the Act where such a requirement is imposed in respect of all client money held by the firm.

Pooling and distribution after a primary pooling event

If a primary pooling event occurs, then:

(1) all client money:

(a) held in the CASS debt management firm's client bank accounts; and
(b) received by the CASS debt management firm on behalf of a client but not yet paid into the firm's client bank accounts; is treated as pooled together to form a notional pool;

(2) a CASS debt management firm must calculate the amount it should be holding on behalf of each individual client as at the time of the primary pooling event using the method of calculating individual client balance provided for by CASS 11.11.21 R;

(3) a CASS debt management firm must decide whether it is in the best interests of its clients to transfer all its debt management activity business to another CASS debt management firm.

Distribution if client money not transferred to another firm

Where a primary pooling event occurs and the client money is not transferred to another firm in accordance with CASS 11.13.4 R, a CASS debt management firm must distribute client money comprising the notional pool so that each client receives a sum that is rateable to their entitlement to the notional pool calculated in CASS 11.13.4 R (2).

Transfer of client money to another firm

If in the event of a primary pooling event occurring the debt management activity business undertaken by a CASS debt management firm ("the transferor") is to be transferred to another CASS debt management firm ("the transferee"), then the transferor may also move the client money associated with that business to the transferee. The remaining client money may be transferred under CASS 11.13.6 G only if it will be held by the transferee in accordance with the debt management client money chapter, including the statutory trust in CASS 11.6.1 R.

If there is a shortfall in the client money transferred under CASS 11.13.6 G then the client money must be allocated to each of the clients for whom the client money was held so that each client is allocated a sum which is rateable to that client's client money entitlement in accordance with CASS 11.13.4 R (2). This calculation may be done by either transferor or transferee in accordance with the terms of any transfer.

The transferee must, within seven days after the transfer of client money under CASS 11.13.6 G notify clients that:

(1) their money has been transferred to the transferee; and

(2) they have the option of having client money returned to them or to their order by the transferee, otherwise the transferee will hold the client money for the clients and conduct debt management activities for those clients.
CASS 11 : Debt management
client money chapter

Section 11.13 : Client money distribution in the event of a failure of a firm or approved bank

11.13.10 R

A secondary pooling event occurs on the failure of an approved bank at which a CASS debt management firm holds client money in a client bank account.

11.13.11 R

(1) Subject to (2), if a secondary pooling event occurs as a result of the failure of an approved bank where one or more client bank accounts are held then in relation to every client bank account of the firm, the provisions of ■ CASS 11.13.12 R (1), ■ CASS 11.13.12 R (2) and ■ CASS 11.13.12 R (3) will apply.

(2) ■ CASS 11.13.12 R does not apply if, on the failure of the approved bank, the CASS debt management firm pays to its clients, or pays into a client bank account at an unaffected approved bank, an amount equal to the amount of client money that would have been held if a shortfall had not occurred as a result of the failure.

11.13.12 R

Money held in each client bank account of the firm must be treated as pooled and:

(1) any shortfall in client money held, or which should have been held, in client bank accounts, that has arisen as a result of the failure of the approved bank, must be borne by all clients whose client money is held in a client bank account of the firm, rateably in accordance with their entitlements to the pool;

(2) a new client money entitlement must be calculated for each client by the firm, to reflect the requirements in (1), and the firm’s records must be amended to reflect the reduced client money entitlement;

(3) the CASS debt management firm must make and retain a record of each client’s share of the client money shortfall at the failed approved bank until the client is repaid; and

(4) the firm must use the new client entitlements, calculated in accordance with (2), when performing the client money calculation in ■ CASS 11.11.17 R.

11.13.13 R

The term 'which should have been held' is a reference to the failed approved bank’s failure to hold the client money at the time of the pooling event.

11.13.14 R

Any interest earned on client money following a primary or secondary pooling event will be due to clients in accordance with ■ CASS 11.9.11 R (Interest).
CASS debt management firm client bank account acknowledgement letter template

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

CASS debt management firm client bank account acknowledgement letter template - CASS 11 Annex 1
Guidance notes for client bank account acknowledgement letters (CASS 11.8.5G)

Introduction

1. This annex contains guidance on the use of the template client bank account acknowledgement letters in CASS 11 Annex 1.

General

2. Under CASS 11.8.2 R (2), CASS debt management firms are required to have in place a duly signed and countersigned client bank account acknowledgement letter for a client bank account before they are allowed to hold or receive client money in or into the account.

3. For each client bank account a CASS debt management firm is required to complete, sign and send to the approved bank a client bank account acknowledgement letter identifying that account and in the form set out in CASS 11 Annex 1 (CASS debt management firm client bank account acknowledgment letter template).

4. When completing a client bank account acknowledgement letter using the appropriate template, a CASS debt management firm is reminded that it must not amend any of the text which is not in square brackets (acknowledgment letter fixed text). A CASS debt management firm should also not amend the non-italicised text that is in square brackets. It may remove or include square bracketed text from the letter, or replace bracketed and italicised text with the required information, in either case as appropriate. The notes below give further guidance on this.

Clear identification of relevant accounts

5. A CASS debt management firm is reminded that for each client bank account it needs to have in place a client bank account acknowledgement letter. As a result, it is important that it is clear to which account or accounts each client bank account acknowledgement letter relates. As a result, the templates in CASS 11 Annex 1 require that the client bank account acknowledgement letter include the full title and at least one unique identifier, such as a sort code and account number, deposit number or reference code, for each client bank account.

6. The title and unique identifiers included in a client bank account acknowledgement letter for a client bank account should be the same as those reflected in both the records of the CASS debt management firm and the relevant approved bank, as appropriate, for that account. Where an approved bank’s systems are not able to reflect the full title of an account, that title may be abbreviated to accommodate that system, provided that:

   (a) the account may continue to be appropriately identified in line with the requirements of CASS 11 (for example, ‘segregated’ may be shortened to ‘seg’, ‘account’ may be shortened to ‘acct’ etc); and
   (b) when completing a client bank account acknowledgement letter, such letter must include both the long and short versions of the account title.
7. A CASS debt management firm should ensure that all relevant account information is contained in the space provided in the body of the client bank account acknowledgement letter. Nothing should be appended to a client bank account acknowledgement letter.

8. In the space provided in the template letters for setting out the account title and unique identifiers for each relevant account/deposit, a CASS debt management firm firm may include the required information in the format of the following table:

<table>
<thead>
<tr>
<th>Full account title</th>
<th>Unique identifier</th>
<th>Title reflected in [name of approved bank] systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Debt Management Firm Client Bank Account]</td>
<td>[00-00-00 12345678]</td>
<td>[DM FIRM CLIENT A/C]</td>
</tr>
</tbody>
</table>

9. Where a client bank account acknowledgement letter is intended to cover a range of client bank accounts, some of which may not exist as at the date the client bank account acknowledgement letter is countersigned by the approved bank, a CASS debt management firm should set out in the space provided in the body of the client bank account acknowledgement letter that it is intended to apply to all present and future accounts which: (a) are titled in a specified way (e.g. with the word ‘client’ in their title); and (b) which possess a common unique identifier or which may be clearly identified by a range of unique identifiers (e.g. all accounts numbered between XXXX1111 and ZZZZ9999). For example, in the space provided in the template letter in ❏ CASS 11 Annex 1 which allows a CASS debt management firm to include the account title and a unique identifier for each relevant account, a CASS debt management firm should include a statement to the following effect:

Any account open at present or to be opened in the future which contains the term [‘client’] [insert appropriate abbreviation of the term ‘client’ as agreed and to be reflected in the Approved Bank’s systems] in its title and which may be identified with [the following [insert common unique identifier]][an account number from and including [XXXX1111] to and including [ZZZZ9999]][clearly identify range of unique identifiers].

Signatures and countersignatures

10. A CASS debt management firm should ensure that each client bank account acknowledgement letter is signed and countersigned by all relevant parties and individuals (including where a firm or the approved bank may require more than one signatory).

11. A client bank account acknowledgement letter that is signed or countersigned electronically should not, for that reason alone, result in a breach of the rules in ❏ CASS 11.8. However, where electronic signatures are used, a CASS debt management firm should consider whether, taking into account the governing law and choice of competent jurisdiction, it needs to ensure that the electronic signature and the certification by any person of such signature would be admissible as evidence in any legal proceedings in the relevant jurisdiction in relation to any question as to the authenticity or integrity of the signature or any associated communication.

Completing a client bank account acknowledgment letter

12. A CASS debt management firm should use at least the same level of care and diligence when completing a client bank account acknowledgement letter as it would in managing its own commercial agreements.

13. A CASS debt management firm should ensure that each client bank account acknowledgement letter is legible (e.g. any handwritten details should be easy to read), produced on the firm’s own letter-headed paper, dated and addressed to the correct legal entity (e.g. where the approved bank belongs to a group of companies).
14. A CASS debt management firm should also ensure each client bank account acknowledgement letter includes all the required information (such as account names and numbers, the parties’ full names, addresses and contact information, and each signatory’s printed name and title).

15. A CASS debt management firm should similarly ensure that no square brackets remain in the text of each client bank account acknowledgement letter (e.g. after having removed or included square bracketed text, as appropriate, or having replaced square bracketed and italicised text with the required information as indicated in the templates in ■ CASS 11 Annex 1) and that each page of the letter is numbered.

16. A CASS debt management firm should complete a client bank account acknowledgement letter so that no part of the letter can be easily altered (e.g. the letter should be signed in ink rather than pencil).

17. In respect of the client bank account acknowledgement letter’s governing law and choice of competent jurisdiction (see paragraphs (l) and (m) of the template client bank account acknowledgement letters), a CASS debt management firm should agree with the approved bank and reflect in the letter that the laws of a particular jurisdiction will govern the client bank account acknowledgement letter and that the courts of that same jurisdiction will have jurisdiction to settle any disputes arising out of, or in connection with, the client bank account acknowledgement letter, its subject matter or formation.

18. If a CASS debt management firm does not, in any client bank account acknowledgement letter, utilise the governing law and choice of competent jurisdiction that is the same as either or both:

(a) the laws of the jurisdiction under which either the firm or the relevant approved bank are organised; or

(b) as is found in the underlying agreement/s (e.g. banking services agreement) with the relevant approved bank;

then the CASS debt management firm should consider whether it is at risk of breaching either ■ CASS 11.8.4 R (3) or, if it is a CASS large debt management firm, ■ CASS 11.7.2 R.

Authorised signatories

19. A CASS debt management firm is required under ■ CASS 11.8.7 R to use reasonable endeavours to ensure that any individual that has countersigned a client bank account acknowledgement letter returned to the firm was authorised to countersign the letter on behalf of the relevant approved bank.

20. If an individual that has countersigned a client bank account acknowledgement letter does not provide the CASS debt management firm with sufficient evidence of his/her authority to do so then the CASS debt management firm is expected to make appropriate enquiries to satisfy itself of that individual’s authority.

21. Evidence of an individual’s authority to countersign a client bank account acknowledgement letter may include a copy of the approved bank’s list of authorised signatories, a duly executed power of attorney, use of a company seal or bank stamp, and/or material verifying the title or position of the individual countersigning the client bank account acknowledgement letter.

22. A CASS debt management firm should ensure it obtains at least the same level of assurance over the authority of an individual to countersign the client bank account acknowledgement letter as the firm would seek when managing its own commercial arrangements.

Third party administrators
23. If a CASS debt management firm uses a third party administrator (TPA) to carry out the administrative tasks of drafting, sending and processing a client bank account acknowledgement letter, the text "[Signed by [Name of Third Party Administrator] on behalf of [CASS debt management firm]]" should be inserted to confirm that the client bank account acknowledgement letter was signed by the TPA on behalf of the CASS debt management firm.

24. In these circumstances, the CASS debt management firm should first provide the TPA with the requisite authority (such as a power of attorney) before the TPA will be able to sign the client bank account acknowledgement letter on the CASS debt management firm's behalf. A CASS debt management firm should also ensure that the client bank account acknowledgement letter continues to be drafted on letter-headed paper belonging to the CASS debt management firm.

Client bank accounts

25. A CASS debt management firm must ensure that each of its client bank accounts follows the naming conventions prescribed in the Glossary. This includes ensuring that all client bank accounts include the term ‘client’ in their title or an appropriate abbreviation in circumstances where this is permitted by the Glossary definition.

26. All references to the term “Client Bank Account[s]” in a client bank account acknowledgement letter should also be made consistently in either the singular or plural, as appropriate.
Chapter 12

Commodity Futures Trading Commission Part 30 exemption order
12.1 Application

12.1.1 R This chapter applies to a firm conducting business pursuant to the Part 30 exemption order.

12.1.2 G United States ('US') legislation restricts the ability of non-US firms to trade on behalf of customers resident in the US ('US customers') on non-US futures and options exchanges. The relevant US regulator (the CFTC) operates an exemption system for firms authorised under the Act. Under the Part 30 exemption order, eligible firms may apply for confirmation of exemptive relief from Part 30 of the General Regulations under the US Commodity Exchange Act. In line with this system, both the applicant firm and the FCA must make certain written representations to the CFTC.
12.2 Treatment of client money

12.2.1 Under condition 2(g) of the Part 30 exemption order, a firm with exemptive relief represents to the CFTC that it consents to refuse to allow any US customer the option of not having its money treated as client money if it is held or received in respect of transactions on non-US exchanges, unless that US customer is an "eligible contract participant" as defined in section 1a(18) of the Commodity Exchange Act, 7 U.S.C.

12.2.2 The FCA understands that in complying with condition 2(g) of the Part 30 exemption order, a firm is representing that it will not:

(1) make use of the opt-out arrangements in CASS 7.10.9G to CASS 7.10.13G; or

(2) conduct business to which the client money rules do not apply because of the exemption for CRD credit institutions and approved banks in CASS 7.10.16R to CASS 7.10.24R; or

(3) enter into any TTCA under CASS 7.11;

in relation to business conducted pursuant to the Part 30 exemption order.

LME bond arrangements

12.2.3 For firms with exemptive relief under the Part 30 exemption order, the CFTC has issued certain no-action letters which, on the FCA’s understanding, would allow such firms to use an LME bond arrangement as an alternative to complying with condition 2(g) of the Part 30 exemption order. Under an LME bond arrangement, a firm may arrange for a binding letter of credit to be issued to cover the ‘secured amount’ (as defined by section 30.7 of the General Regulations under the US Commodity Exchange Act). The letter of credit must be drawn up in a pre-specified format and may be issued for either:

(1) an omnibus account in favour of a specified trustee; or

(2) a specified client who is the named beneficiary.

12.2.4 A firm must not reduce the amount of, or cancel a letter of credit issued under, an LME bond arrangement where this will cause the firm to be in breach of the conditions of the Part 30 exemption order.
12.2.5 **R** A firm must notify the FCA immediately if it arranges the issue of a letter of credit for a specified client who is the named beneficiary under an LME bond arrangement.

12.2.6 **G** A firm's use of an LME bond arrangement does not remove the need for the firm to act in accordance with the client money rules.
Chapter 13

Claims management: client money
13.1 Application

This chapter applies to a firm that:

1. carries on a regulated claims management activity; and
2. receives or holds client money.
13.2 Organisational requirements and responsibility for CASS operational oversight

13.2.1 A firm must, when holding client money, make adequate arrangements to safeguard the customer’s rights and prevent the use of client money for its own account.

13.2.2 A firm must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of client money, or of rights in connection with client money, as a result of misuse of client money, fraud, poor administration, inadequate record-keeping or negligence.

13.2.3 A firm must allocate to a director or senior manager responsibility for:

   (1) oversight of the firm’s operational compliance with CASS 13;
   (2) reporting to the firm’s governing body in respect of that oversight; and
   (3) completing and submitting the client money parts of a CMC001 return in accordance with SUP 16.25.3R to SUP 16.25.8R.

13.2.4 (1) A firm must make and retain an appropriate record of the person to whom responsibility is allocated in accordance with CASS 13.2.3R.

   (2) But a firm must make and retain such a record only where:

   (a) there is a person in that firm who performs the compliance oversight function; and
   (b) it allocates responsibility in accordance with CASS 13.2.3R to a person other than the person in that firm who performs the compliance oversight function.

   (3) A firm must ensure that a record made under this rule is retained for a period of five years after it is made.

13.2.5 (1) This paragraph CASS 13.2.5G explains how CASS 13.2.3R fits into the senior managers and certification regime. This paragraph does not deal with a firm that is a PRA-authorised person.
(2) The senior managers and certification regime is summarised in SYSC 23.3 (Overview of the senior managers and certification regime).

(3) The function in CASS 13.2.3R is not a separate controlled function and performing that function does not require approval as an approved person.

(4) There are three elements of the senior managers and certification regime that are particularly relevant to CASS 13.2.3R, although they do not all apply to all SMCR firms:

(a) a firm's obligation to allocate certain responsibilities to its SMF managers (see SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities));

(b) a firm's obligation to ensure that one or more of its SMF managers have overall responsibility for each of its activities, business areas and management functions (see SYSC 26 (Senior managers and certification regime: Overall and local responsibility)); and

(c) the certification regime (the certification regime is explained in SYSC 27 (Senior managers and certification regime: Certification regime) and SYSC TP 7 (Bank of England and Financial Services Act 2016: Certification and regulatory references) explains that the certification regime comes into force sometime after other parts of the senior managers and certification regime).

(5) (a) This paragraph (5) explains how CASS 13.2.3R applies to a limited scope SMCR firm. Most firms carrying on a regulated claims management activity will be limited scope SMCR firms.

(b) Neither SYSC 24 nor SYSC 26 applies to a limited scope SMCR firm.

(c) The firm may choose to allocate the function in CASS 13.2.3R to an SMF manager.

(d) The firm may instead choose to allocate the function in CASS 13.2.3R to someone who is not an SMF manager.

(e) Where (d) applies, the person performing the function in CASS 13.2.3R will fall into the certification regime. The function in CASS 13.2.3R will be the CASS oversight FCA certification function in SYSC 27.8.1R.

(6) (a) This paragraph (6) explains how CASS 13.2.3R applies to a core SMCR firm.

(b) SYSC 24 applies to a core SMCR firm but SYSC 26 does not.

(c) The firm must allocate responsibility for the firm's compliance with CASS to one of its SMF managers (see SYSC 24.2.1R). That responsibility is an "FCA-prescribed senior management responsibility". The full list of FCA-prescribed senior management responsibilities is in the table in SYSC 24.2.6R.

(d) Although the CASS function in SYSC 24.2.1R is different from the function in CASS 13.2.3R, the firm may allocate the function in CASS 13.2.3R to the SMF manager in CASS 13.2.5G(6)(c).

(e) The firm may choose to allocate the function in CASS 13.2.3R to someone who is not an SMF manager. If so:
(i) that person will be subject to the certification regime described in SYSC 27 (Senior managers and certification regime: Certification regime);

(ii) that person will be subject to supervision by the SMF manager in (c); and

(iii) the function in CASS 13.2.3R will be the CASS oversight FCA certification function in SYSC 27.8.1R.

(7) (a) This paragraph (7) explains how CASS 13.2.3R applies to an enhanced scope SMCR firm.

(b) Both SYSC 24 and SYSC 26 apply to an enhanced scope SMCR firm.

(c) CASS 13.2.5G(6) applies to an enhanced scope SMCR firm.

(d) In addition, the firm may allocate the CASS FCA-prescribed senior management responsibility to an SMF manager who does not perform any other function coming within the FCA regime for SMF managers in SMCR firms. See SUP 10C0.7 (Other overall responsibility function (SMF18)) and SUP 10C.8.1R (Other local responsibility function (SMF22)) for details. Where this is the case, the manager will be performing the other overall responsibility function or the other local responsibility function.

(8) A firm may only give the function in CASS 13.2.3R to a director or senior manager. It is likely that an SMF manager will satisfy this condition. If the firm wants to give the function to someone else, it should make sure that it meets the requirements of CASS 13.2.3R as well as of the senior managers and certification regime.
A firm receives and holds client money as trustee on the following terms:

(1) for the purposes and on the terms of the claims management client money rules and the claims management client money distribution rules;

(2) subject to (3), for the customers for whom that money is held, according to their respective interests in it;

(3) on failure of the firm, for the payment of the costs properly attributable to the distribution of the client money in accordance with (2); and

(4) after all valid claims and costs under (2) and (3) have been met, for the firm itself.
13.4 Selecting an approved bank at which to hold client money

13.4.1 A firm owes a duty of care as a trustee to its clients in relation to client money and has to exercise that duty of care in deciding where to hold client money.

13.4.2 Before a firm opens a client bank account and as often as is appropriate on a continuing basis (such frequency being no less than once in each financial year) it must take reasonable steps to establish that it is appropriate for the firm to hold client money at the approved bank concerned.

13.4.3 A firm must consider the risks associated with holding all client money with one approved bank and should consider whether it would be appropriate to hold client money in client bank accounts at a number of different approved banks.

13.4.4 In complying with CASS 13.4.3R, a firm should consider as appropriate, together with any other relevant matters:

(1) the amount of client money held by the firm;

(2) the amount of client money the firm anticipates holding at the approved bank; and

(3) the creditworthiness of the approved bank.

13.4.5 A firm can demonstrate compliance with CASS 13.4.2R by checking that the person it proposes to hold client money with is an approved bank and that nothing has come to the firm’s attention to cause it to believe that such person is not an appropriate place at which to hold client money.
13.5 Client bank account acknowledgement letters

13.5.1 The main purposes of a client bank account acknowledgement letter are:

(1) to put the approved bank on notice of a firm’s clients’ interests in client money that has been deposited with such person;

(2) to ensure that the client bank account has been opened in accordance with CASS 13.6.3R, and is distinguished from any account containing money that belongs to the firm; and

(3) to ensure that the approved bank understands and agrees that it will not have any recourse or right against money standing to the credit of the client bank account, in respect of any liability of the firm to such person (or person connected to such person).

Requirement for and content of client bank account acknowledgement letters

13.5.2 (1) For each client bank account, a firm must, in accordance with CASS 13.5.4R, complete and sign a client bank account acknowledgement letter clearly identifying the client bank account, and send it to the approved bank with whom the client bank account is, or will be, opened, requesting the bank to acknowledge and agree to the terms of the letter by countersigning it and returning it to the firm.

(2) Subject to CASS 13.5.6R, a firm must not hold or receive any client money in or into a client bank account unless it has received a duly countersigned client bank account acknowledgement letter from the approved bank. The letter must not have been inappropriately redrafted and should clearly identify the client bank account.

13.5.3 In drafting client bank account acknowledgement letters under CASS 13.5.2R a firm is required to use the relevant template in CASS 13 Annex 1R.

13.5.4 When completing a client bank account acknowledgement letter under CASS 13.5.2R(1) a firm:

(1) must not amend any of the acknowledgement letter fixed text;

(2) subject to (3), must ensure the acknowledgement letter variable text is removed, included or amended as appropriate; and
(3) must not amend any of the acknowledgement letter variable text in a way that would alter or otherwise change the meaning of the acknowledgement letter fixed text.

13.5.5 G CASS 13 Annex 2G contains guidance on using the template client bank account acknowledgement letters, including on when and how firms should amend the acknowledgement letter variable text that is in square brackets.

Countersignature by the bank

13.5.6 R (1) If, on countersigning and returning the client bank account acknowledgement letter to a firm, the relevant approved bank has also:

(a) made amendments to any of the acknowledgement letter fixed text; or

(b) made amendments to any of the acknowledgement letter variable text in a way that would alter or otherwise change the meaning of the acknowledgement letter fixed text;

the client bank account acknowledgement letter will have been inappropriately redrafted for the purposes of CASS 13.5.2R(2).

(2) Amendments made to the acknowledgement letter variable text, in the client bank account acknowledgement letter returned to a firm by the relevant approved bank, will not have the result that the letter has been inappropriately redrafted if those amendments:

(a) do not affect the meaning of the acknowledgement letter fixed text;

(b) have been specifically agreed with the firm; and

(c) do not cause the client bank account acknowledgement letter to be inaccurate.

13.5.7 R A firm must use reasonable endeavours to ensure that any individual that has countersigned a client bank account acknowledgement letter that has been returned to the firm was authorised to countersign the letter on behalf of the relevant approved bank.

Retention of client bank account acknowledgement letters

13.5.8 R A firm must retain each countersigned client bank account acknowledgement letter it receives from the date of receipt until the expiry of a period of five years starting on the date on which the last client bank account to which the acknowledgment letter relates is closed.

13.5.9 R A firm must also retain any other documentation or evidence it believes is necessary to demonstrate that it has complied with each of the applicable requirements in this section (such as any evidence it has obtained to ensure that the individual that has countersigned a client bank account acknowledgement letter that has been returned to the firm was authorised to countersign the letter on behalf of the relevant approved bank).
**Review and replacement of client bank account acknowledgement letters**

13.5.10 **R** A *firm* must, periodically (at least annually, and whenever it becomes aware that something referred to in a *client bank account acknowledgement letter* has changed) review each of its countersigned *client bank account acknowledgement letters* to ensure that they remain accurate.

13.5.11 **R** Whenever a *firm* finds a countersigned *client bank account acknowledgement letter* to contain an inaccuracy, the *firm* must promptly draw up a new replacement *client bank account acknowledgement letter* under ■ CASS 13.5.2R and ensure that the new *client bank account acknowledgement letter* is duly countersigned and returned by the relevant *approved bank*.

13.5.12 **G** Under ■ CASS 13.5.10R, a *firm* should obtain a replacement *client bank account acknowledgement letter* whenever:

1. there has been a change in any of the parties' names or addresses or a change in any of the details of the relevant account(s) as set out in the letter; or

2. it becomes aware of an error or misspelling in the letter.

13.5.13 **R** If a *firm's client bank account* is transferred to another *approved bank*, the *firm* must promptly draw up a new *client bank account acknowledgement letter* under ■ CASS 13.5.2R and ensure that the new *client bank account acknowledgement letter* is duly countersigned and returned by the relevant *approved bank* within 20 *business days* of the *firm* sending it to that *person*.
13.6 Segregation and the operation of client money accounts

Requirement to segregate

13.6.1 A firm must take all reasonable steps to ensure that all client money it receives is paid directly into a client bank account at an approved bank, rather than being first received into the firm’s own account and then segregated.

13.6.2 A firm should arrange for clients and third parties to make transfers and payments of any money which will be client money directly into the firm’s client bank accounts.

13.6.3 A firm must ensure that client money is held in a client bank account at one or more approved banks.

13.6.4 Cheques received by a firm, made out to the firm, representing client money or a mixed remittance must be treated as client money from receipt by the firm.

13.6.5 Where a firm receives client money in the form of cash, a cheque or other payable order, it must:

1. pay the money into a client bank account in accordance with CASS 13.6.1R promptly and no later than the business day after the day on which it receives the money;

2. if the firm holds the money overnight, hold it in a secure location in line with Principle 10; and

3. record the receipt of the money in the firm’s books and records under the applicable requirements of CASS 13.10 (Records, accounts and reconciliations).

13.6.6 If a firm receives money (either in a client bank account or an account of its own) which it is unable immediately to identify as client money or its own money, it must:

1. take all necessary steps to identify the money as either client money or its own money; and
(2) if it considers it reasonably prudent to do so, given the risk that client money may not be adequately protected if it is not treated as such, treat the entire balance of money as client money and record the money in its books and records as “unidentified client money” while it performs the necessary steps under (1).

13.6.7 If a firm is unable to identify money that it has received as either client money or its own money under CASS 13.6.6R(1), it should consider whether it would be appropriate to return the money to the person who sent it (or, if that is not possible, to the source from where it was received, for example, the bank). A firm should have regard to its fiduciary duties when considering such matters.

13.6.8 A firm must ensure that client money received by its agents is:

(1) received directly into a client bank account of the firm; or

(2) if it is received in the form of a cheque or other payable order:

(a) paid into a client bank account of the firm promptly and, in any event, no later than the next business day after receipt; or

(b) forwarded to the firm promptly and, in any event, so that it is received by the firm no later than the close of the third business day following the receipt of the money from the customer; or

if it is received in the form of cash, paid into a client bank account of the firm promptly and, in any event, no later than the next business day after receipt.

Mixed remittance

13.6.9 If a firm receives a mixed remittance it must:

(1) pay the full sum into a client bank account promptly and in accordance with CASS 13.6.1R to 13.6.5R; and

(2) no later than one business day after the payment of the mixed remittance into the client bank account has cleared, pay the money that is not client money out of the client bank account.

Interest

13.6.10 A firm must pay a client any interest earned on client money held for that client.
13.7 Money due and payable to the firm

13.7.1 Money is not client money when it is or becomes properly due and payable to the firm for its own account.

13.7.2 (1) The circumstances in which money may be or become due and payable to the firm for its own account could include:

(a) when fees and/or third party disbursements have become due and payable to the firm for its own account under the agreement between the customer and the firm; and

(b) when money recovered for a customer or a sum in respect of damages, compensation or settlement of a claim is paid into a client bank account and the firm has agreed with the client that a proportion of the sum is to be paid to the firm for fees or in respect of liabilities the firm has incurred on behalf of the customer.

(2) The circumstances in which money is due and payable will depend on the contractual arrangement between the firm and the client.

13.7.3 Firms are reminded that when entering into or varying contractual arrangements with customers regarding circumstances in which money becomes properly due and payable to the firm for its own account, firms should comply with any relevant obligations to customers including the client’s best interests rule and requirements under the Unfair Terms Regulations and the Consumer Rights Act 2015.
13.8 Money due to a client or third party.

13.8.1 Client money in respect of money recovered for a customer or money in respect of damages, compensation or settlement of a claim received into a client bank account must be paid to the customer, or a duly authorised representative of the customer, as soon as reasonably practicable after receipt and, in any event, a firm must take steps within two business days of receipt to make such a payment.

13.8.2 Money received from a customer in respect of third party disbursements which is due and payable to the third party in accordance with the terms of the contractual arrangements between the parties should be paid to the third party as soon as reasonably practicable after receipt.
13.9 Discharge of fiduciary duty

13.9.1 G CASS 13 provides important safeguards for the protection of client money held by firms that sit alongside the fiduciary duty owed by firms in relation to client money. CASS 13.9.2R to 13.9.3R provide for when money ceases to be client money for the purposes of CASS 13 and the fiduciary duty which firms owe to clients in relation to client money.

13.9.2 R Money ceases to be client money if:

(1) it is paid to the customer, or a duly authorised representative of the customer; or

(2) it is:
   (a) paid to a third party on the instruction of the customer, or with the specific consent of the customer; or
   (b) paid to a third party further to an obligation on the firm under any applicable law; or

(3) it is paid into an account of the customer (not being an account which is also in the name of the firm) on the instruction, or with the specific consent, of the customer; or

(4) it is due and payable to the firm for its own account (see CASS 13.7.1R to 13.7.2G); or

(5) it is paid to the firm as an excess in the client bank account (see CASS 13.10.15R(3)).

13.9.3 R When a firm draws a cheque or other payable order to discharge its fiduciary duty to the client, it must continue to treat the sum concerned as client money until the cheque or order is presented and paid.
13.10 Records, accounts and reconciliations

Records and accounts

13.10.1 R

(1) A firm must keep such records and accounts as are necessary to enable it, at any time and without delay, to distinguish client money held for one customer from client money held for any other customer, and from its own money.

(2) A firm must allocate in its books and records any client money it receives to an individual customer promptly and, in any case, no later than two business days following the receipt.

(3) Pending a firm’s allocation of a receipt of client money to an individual customer under (2), it must record the received client money in its books and records as “unallocated client money”.

13.10.2 G

In accordance with CASS 13.10.1R, a firm must maintain internal records and accounts of the client money it holds (for example, a cash book and client ledger accounts). These internal records are separate to any external records it has obtained from approved banks with whom it has deposited client money (for example, bank statements).

13.10.3 R

A firm must maintain its records and accounts in a way that ensures their accuracy and, in particular, their correspondence to the client money held for individual customers.

13.10.4 R

A firm must maintain up-to-date records that detail all payments received for, or on behalf of, customers and all payments to, from, or made on behalf of, customers.

Internal client money reconciliation

13.10.5 R

A firm must carry out an internal client money reconciliation each business day.

13.10.6 R

An internal client money reconciliation requires a firm to check whether its client money resource, as determined by CASS 13.10.8R, on the previous business day, was at least equal to the client money requirement, as determined by CASS 13.10.9R, as at the close of business on that day.
In carrying out an internal client money reconciliation, a firm must use the values contained in its internal records and ledgers (for example, its cash book or other internal accounting records), rather than the values contained in the records it has obtained from approved banks with whom it has deposited client money (for example, bank statements).

Calculating the client money resource

The client money resource for client money held in accordance with CASS 13.6.6R is the aggregate of the balances on the firm’s client bank accounts, as at the close of business on the previous business day.

Calculating the client money requirement

1. The client money requirement is the sum of:
   (a) the aggregate of all individual customer balances calculated in accordance with CASS 13.13 and CASS 13.14R;
   (b) the amount of any unallocated client money under CASS 13.10.1R(3);
   (c) the amount of any unidentified client money under CASS 13.6.6R(2); and
   (d) any other amounts of client money included in the calculation under (2).

2. For the purposes of (1)(d), the firm must consider whether there are amounts of client money, other than those in (1)(a) to (c), to which the requirement to segregate applies and that it is appropriate to include in the calculation of its client money requirement and, if so, adjust the calculation accordingly.

The client money requirement calculated in accordance with CASS 13.9R should represent the total amount of client money a firm is required to have segregated in client bank accounts under CASS 13.

Firms are reminded that, under CASS 13.9.3R, if a firm has drawn any cheques, or other payable orders, to discharge its fiduciary duty to its clients (for example, to return client money to the client), the sum concerned must be included in the firm’s calculation of its client money requirement until the cheque or order is presented and paid.

(1) The following guidance applies where a firm receives client money in the form of cash, a cheque or other payable order.

(2) In carrying out the calculation of the client money requirement, a firm may initially include the amount of client money received as cash, cheques or payment orders that has not yet been deposited in a client bank account in line with CASS 13.6.5R. If it does so, the firm should ensure, before finalising the calculation, that it deducts these amounts to avoid them giving rise to a difference between the firm’s client money requirement and client money resource.
(3) In carrying out the calculation of the client money requirement, a firm may alternatively exclude the amount of client money received as cash, cheques or payment orders that has not yet been deposited in a client bank account in line with CASS 13.6.5R. If it does so, the firm is reminded that it must separately record the receipt of the money in the firm’s books and records under CASS 13.6.5R(3).

(4) A firm that receives client money in the form of cash, a cheque or other payable order is reminded that it must pay that money into a client bank account promptly and no later than on the business day after it receives the money (see CASS 13.6.5R).

13.10.13 The individual customer balance for each client must be calculated as follows:

(1) the amount received for or on behalf of the customer by the firm; plus

(2) the amount of any interest, and any other sums, due from the firm to the customer; less:

(3) the aggregate of the amount of money:
   (a) paid to that customer by the firm; and
   (b) due and payable by the customer to the firm; and
   (c) due by the customer to a third party in accordance with the contractual arrangements in place between the firm and the customer.

13.10.14 Where the individual customer balance calculated in respect of an individual client under CASS 13.10.13R is a negative figure (because the amounts received for or on behalf of, or due, to a client under CASS 13.10.13R(1) and CASS 13.10.13R(2) are less than the amounts paid by, or due and payable by, that customer under CASS 13.10.13R(3)), that individual customer balance should be treated as zero for the purposes of the calculation of the firm’s client money requirement in CASS 13.10.9R.

Reconciliation differences and discrepancies

13.10.15 When an internal client money reconciliation reveals a difference between the client money resource and its client money requirement a firm must:

(1) identify the reason for the difference;

(2) ensure that any shortfall in the amount of the client money resource as compared to the amount of the client money requirement is made up by a payment into the firm’s client bank accounts by the end of the business day following the day on which the difference was discovered; and

(3) ensure that any excess in the amount of the client money resource as compared to the amount of the client money requirement is withdrawn from the firm’s client bank accounts by the end of the business day following the day on which the difference was discovered.
### External client money reconciliation

**13.10.16** The purpose of the reconciliation process required by [CASS 13.10.17R](#) is to ensure the accuracy of a firm’s internal accounts and records against those of any third parties by whom client money is held.

**13.10.17** A firm must perform an external client money reconciliation:

1. each business day; and
2. as soon as reasonably practicable after the relevant internal client money reconciliation;

...to ensure the accuracy of its internal accounts and records by comparing its internal accounts records against those of approved banks with whom client money is deposited.

**13.10.18** An external client money reconciliation requires a firm to conduct a reconciliation between its internal accounts and records and those of any approved banks by whom client money is held.

**13.10.19** When any discrepancy is revealed by an external client money reconciliation, a firm must identify the reason for the discrepancy and correct it as soon as possible, unless the discrepancy arises solely as a result of timing differences between the accounting system of the party providing the statement or confirmation and that of the firm.

**13.10.20** While a firm is unable to resolve a discrepancy arising from an external client money reconciliation, and one record or a set of records examined by the firm during the reconciliation process indicates that there is a need to have greater amount of client money than is in fact the case, the firm must assume, until the matter is finally resolved, that the record or set of records is accurate and pay its own money into a relevant client bank account.

### Notification requirements

**13.10.21** A firm must inform the FCA in writing without delay if:

1. its internal records and accounts of client money are materially out of date or materially inaccurate so that the firm is no longer able to comply with the requirements in [CASS 13.10.1R](#) to [CASS 13.10.4R](#); or
2. it will be unable to or materially fails to conduct an internal client money reconciliation in compliance with [CASS 13.10.5R](#); or
3. after having carried out an internal client money reconciliation in accordance with [CASS 13.10.5R](#) it will be unable to, or materially fails to, pay any shortfall into (or withdraw any excess from) a client bank account so that the firm is unable to comply with [CASS 13.10.15R](#); or
4. it will be unable to or materially fails to conduct an external client money reconciliation in compliance with [CASS 13.10.17R](#); or
(5) after having carried out an external client money reconciliation in accordance with ■ CASS 13.10.17R it will be unable to, or materially fails to, identify the reason for any discrepancies and correct them in accordance with ■ CASS 13.10.19R; or

(6) it becomes aware that, at any time in the preceding 12 months, the amount of client money segregated in its client bank accounts materially differed from the total aggregate amount of client money the firm was required to segregate in client bank accounts in accordance with the segregation requirements in ■ CASS 13.6.
13.11 Client money distribution in the event of a failure of a firm or approved bank

**Application**

13.11.1 This section (the claims management client money distribution rules) applies to a firm that holds client money which is subject to the claims management client money rules when a primary pooling event or a secondary pooling event occurs.

**Purpose**

13.11.2 The claims management client money distribution rules seek, in the event of the failure of a firm or of an approved bank at which the firm holds client money, to protect client money and to facilitate the timely return of client money to clients.

**Failure of the authorised firm: primary pooling event**

13.11.3 A primary pooling event occurs:

(1) on the failure of the firm;

(2) on the vesting of assets in a trustee in accordance with an ‘assets requirement’ imposed under section 55P(1)(b) or (c) (as the case may be) of the Act; or

(3) on the coming into force of a requirement or requirements which, either separately or in combination:

   (a) is or are for all client money held by the firm; and

   (b) require the firm to take steps to cease holding all client money.

**Pooling and distribution after a primary pooling event**

13.11.4 If a primary pooling event occurs, then:

(1) all client money:

   (a) held in the firm’s client bank accounts; and

   (b) any client money identifiable in any other account held by the firm into which client money has been received;

   is treated as pooled together to form a notional pool; and
(2) a firm must calculate the amount it should be holding on behalf of each individual customer as at the time of the primary pooling event using the method of calculating individual customer balance provided for by CASS 13.10.13R.

**Distribution if client money not transferred to another firm**

Where a primary pooling event occurs and the client money pool is not transferred to another firm in accordance with CASS 13.11.6R, a firm must distribute client money comprising the notional pool so that each client receives a sum that is rateable to its entitlement to the notional pool calculated in accordance with CASS 13.11.4R(2).

**Transfer of client money to another firm**

If, in the event of a primary pooling event occurring, the regulated claims management activity business undertaken by a firm (“the transferor”) is to be transferred to another firm (“the transferee”), then the transferor may move the client money pool to the transferee.

If the transferor decides to move the client money pool to the transferee, the transferor must immediately on making the decision, and before the move takes place, notify the FCA in writing of:

1. the proposed move, including the date of the proposed move if known at the time of the notification; and
2. the proposed transferee.

The client money pool may be transferred under CASS 13.11.6R only if it will be held by the transferee in accordance with CASS 13, including the statutory trust in CASS 13.3.1R.

If there is a shortfall in the client money transferred under CASS 13.11.6R then the client money must be allocated to each of the customers for whom the client money was held so that each client is allocated a sum which is rateable to that customer’s client money entitlement in accordance with CASS 13.11.4R(2). This calculation may be done by either transferor or transferee in accordance with the terms of any transfer.

The transferee must, within seven days after the transfer of client money under CASS 13.11.6R notify customers that:

1. their money has been transferred to the transferee; and
2. they have the option of having client money returned to them or to their order by the transferee, otherwise the transferee will hold the client money for the customers and conduct regulated claims management activities for those customers.
**Failure of an approved bank: secondary pooling event**

A secondary pooling event occurs on the failure of an approved bank at which a firm holds client money in a client bank account.

13.11.1 Subject to (2), if a secondary pooling event occurs as a result of the failure of an approved bank where one or more client bank accounts are held then in relation to every client bank account of the firm, the provisions of CASS 13.11.13R(1), CASS 13.11.13R(2) and CASS 13.11.13R(3) will apply.

13.11.2 (1) Subject to (2), if a secondary pooling event occurs as a result of the failure of an approved bank where one or more client bank accounts are held then in relation to every client bank account of the firm, the provisions of CASS 13.11.13R(1), CASS 13.11.13R(2) and CASS 13.11.13R(3) will apply.

13.11.12 (2) CASS 13.11.13R does not apply if, on the failure of the approved bank, the firm pays to its clients, or pays into a client bank account at an unaffected approved bank, an amount equal to the amount of client money that would have been held if a shortfall had not occurred as a result of the failure.

13.11.3 Money held in each client bank account of the firm must be treated as pooled and:

1. any shortfall in client money held, or which should have been held, in client bank accounts, that has arisen as a result of the failure of the approved bank, must be borne by all customers whose client money is held in a client bank account of the firm, rateably in accordance with their entitlements to the pool;

2. a new client money entitlement must be calculated for each customer by the firm, to reflect the requirements in (1), and the firm’s records must be amended to reflect the reduced client money entitlement;

3. the firm must make and retain a record of each client’s share of the client money shortfall at the failed approved bank until the client is repaid; and

4. the firm must use the new client entitlements, calculated in accordance with (2), when performing the client money calculation in CASS 13.10.9R.

13.11.4 The term “which should have been held” is a reference to the failed approved bank’s failure to hold the client money at the time of the pooling event.

13.11.5 Any interest earned on client money following a primary or secondary pooling event will be due to clients in accordance with CASS 13.6.10R (Interest).
CASS client bank account acknowledgement letter template

[Letterhead of firm subject to CASS 13.5.3R, including full name and address of firm]

[Name and address of approved bank]

[Date]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following [current/deposit account[s]] which [name of firm], regulated by the Financial Conduct Authority (Firm Reference Number [FRN]), (“us”, “we” or “our”) has opened or will open with [name of approved bank] (“you” or “your”):

[Insert the account title[s], the account unique identifier[s] (for example, as relevant, sort code and account number) and (if applicable) any abbreviated name of the account[s] as reflected in the approved bank’s systems]

[[collectively,] the “Client Bank Account[s]”].

In relation to [each of] the Client Bank Account[s] identified above you acknowledge that we have notified you that:

(a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;

(b) we have opened or will open the Client Bank Account for the purpose of depositing money with you on behalf of our clients; and

(c) we hold all money standing to the credit of the Client Bank Account in our capacity as trustee under the laws applicable to us.

In relation to [each of] the Client Bank Account[s] identified above you agree that:

(d) you do not have any recourse or right against money in the Client Bank Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Bank Account with any other account and any right of set-off or counterclaim against money in the Client Bank Account;

(e) you will title, or have titled, the Client Bank Account as stated above and that such title is different to the title of any other account containing money that belongs to us or to any third party; and

(f) you are required to release on demand all money standing to the credit of the Client Bank Account, upon proper notice and instruction from us or a liquidator, receiver, administrator, or trustee (or similar person) appointed for us in bankruptcy, (or similar procedure) in any relevant jurisdiction, except for any properly incurred charges or liabilities owed to you on, and arising from the operation of, the Client Bank Account, provided that you have a contractual right to retain such money and that this right is notwithstanding (a) to (c) above and without breach of your agreement to (d) above.
We acknowledge that:

(g) you are not responsible for ensuring compliance by us with our own obligations, including as trustee, in respect of the Client Bank Account[s].

You and we agree that:

(h) the terms of this letter will remain binding upon the parties, their successors and assigns, and, for the avoidance of doubt, regardless of any change in name of any party;

(i) this letter supersedes and replaces any previous agreement between the parties in connection with the Client Bank Account[s], to the extent that such previous agreement is inconsistent with this letter;

(j) in the event of any conflict between this letter and any other agreement between the parties in connection with the Client Bank Account[s], this letter agreement will prevail;

(k) no variation to the terms of this letter will be effective unless it is in writing, signed by the parties and permitted under the rules of the Financial Conduct Authority;

(l) this letter will be governed by the laws of [insert appropriate jurisdiction]; and

(m) the courts of [insert same jurisdiction as previous] will have jurisdiction to settle any dispute or claim arising out of or in connection with this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible. We remind you that, pursuant to the rules of the Financial Conduct Authority, we are not allowed to use the Client Bank Account[s] to deposit any money belonging to our clients with you until you have acknowledged and agreed to the terms of this letter.

For and on behalf of [name of firm]

x___________________________

Authorised Signatory

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [name of approved bank]

x___________________________

Authorised Signatory

Print Name:

Title:

Contact Information: [insert signatory’s phone number and email address]

Date:
Guidance notes for client bank account acknowledgement letters (CASS 13.5.5G)

Introduction

1. This annex contains guidance on the use of the template client bank account acknowledgement letters in CASS 13 Annex 1R.

General

2. Under CASS 13.5.2R(2), firms are required to have in place a duly signed and countersigned client bank account acknowledgement letter for a client bank account before they are allowed to hold or receive client money in or into the account.

3. For each client bank account a firm is required to complete, sign and send to the approved bank a client bank account acknowledgement letter identifying that account and in the form set out in CASS 13 Annex 1R (CASS claims management firm client bank account acknowledgment letter template).

4. When completing a client bank account acknowledgement letter using the appropriate template, a firm is reminded that it must not amend any of the text which is not in square brackets (acknowledgment letter fixed text). A firm should also not amend the non-italicised text that is in square brackets. It may remove or include square bracketed text from the letter, or replace bracketed and italicised text with the required information, in either case as appropriate. The notes below give further guidance on this.

Clear identification of relevant accounts

5. A firm is reminded that for each client bank account it needs to have in place a client bank account acknowledgement letter. As a result, it is important that it is clear to which account or accounts each client bank account acknowledgement letter relates. As a result, the template in CASS 13 Annex 1R requires that the client bank account acknowledgement letter includes the full title and at least one unique identifier, such as a sort code and account number, deposit number or reference code, for each client bank account.

6. The title and unique identifiers included in a client bank account acknowledgement letter for a client bank account should be the same as those reflected in both the records of the firm and the relevant approved bank, as appropriate, for that account. Where an approved bank’s systems are not able to reflect the full title of an account, that title may be abbreviated to accommodate that system, provided that:

   (a) the account may continue to be appropriately identified in line with the requirements of CASS 13 (for example, ‘segregated’ may be shortened to ‘seg’, ‘account’ may be shortened to ‘acct’ etc); and

   (b) when completing a client bank account acknowledgement letter, such letter must include both the long and short versions of the account title.

7. A firm should ensure that all relevant account information is contained in the space provided in the body of the client bank account acknowledgement letter. Nothing should be appended to a client bank account acknowledgement letter.
8. In the space provided in the template letter for setting out the account title and unique identifiers for each relevant account/deposit, a firm may include the required information in the format of the following table:

<table>
<thead>
<tr>
<th>Full account title</th>
<th>Unique identifier</th>
<th>Title reflected in [name of approved bank] systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Claims Management Firm Client Bank Account]</td>
<td>[00-00-00 12345678]</td>
<td>[CM FIRM CLIENT A/C]</td>
</tr>
</tbody>
</table>

9. Where a client bank account acknowledgement letter is intended to cover a range of client bank accounts, some of which may not exist as at the date the client bank account acknowledgement letter is countersigned by the approved bank, a firm should set out in the space provided in the body of the client bank account acknowledgement letter that it is intended to apply to all present and future accounts which: (a) are titled in a specified way (e.g. with the word ‘client’ in their title); and (b) which possess a common unique identifier or which may be clearly identified by a range of unique identifiers (e.g. all accounts numbered between XXXX1111 and ZZZZ9999). For example, in the space provided in the template letter in CASS 13 Annex 1R which allows a firm to include the account title and a unique identifier for each relevant account, a firm should include a statement to the following effect:

Any account open at present or to be opened in the future which contains the term ‘client’ [insert appropriate abbreviation of the term ‘client’ as agreed and to be reflected in the Approved Bank’s systems] in its title and which may be identified with [the following [insert common unique identifier]] [an account number from and including [XXXX1111] to and including [ZZZZ9999]] [clearly identify range of unique identifiers].

Signatures and countersignatures

10. A firm should ensure that each client bank account acknowledgement letter is signed and countersigned by all relevant parties and individuals (including where a firm or the approved bank may require more than one signatory).

11. A client bank account acknowledgement letter that is signed or countersigned electronically should not, for that reason alone, result in a breach of the rules in CASS 13.5. However, where electronic signatures are used, a firm should consider whether, taking into account the governing law and choice of competent jurisdiction, it needs to ensure that the electronic signature and the certification by any person of such signature would be admissible as evidence in any legal proceedings in the relevant jurisdiction in relation to any question as to the authenticity or integrity of the signature or any associated communication.

Completing a client bank account acknowledgment letter

12. A firm should use at least the same level of care and diligence when completing a client bank account acknowledgement letter as it would in managing its own commercial agreements. 13. A firm should ensure that each client bank account acknowledgement letter is legible (e.g. any handwritten details should be easy to read), produced on the firm’s own letter-headed paper, dated and addressed to the correct legal entity (e.g. where the approved bank belongs to a group of companies). 14. A firm should also ensure each client bank account acknowledgement letter includes all the required information (such as account names and numbers, the parties’ full names, addresses and contact information, and each signatory’s printed name and title). 15. A firm should similarly ensure that no square brackets remain in the text of each client bank account acknowledgement letter (e.g. after having removed or included square bracketed text, as appropriate, or having replaced square bracketed and italicised text with the required information as indicated in the template in CASS 13 Annex 1R) and that each page of the letter is numbered. 16. A firm should complete a client bank account acknowledgement letter so that no part of the letter can be easily altered (e.g. the letter should be signed in ink rather than pencil). 17. In respect of the client bank account acknowledgement letter’s governing law and choice of competent jurisdiction (see paragraphs (11) and (12) of the template client bank account acknowledgement letters), a firm should agree with the approved bank and reflect in the letter that the laws of a particular jurisdiction will govern the client bank account acknowledgement letter and that the courts of that same jurisdiction will have jurisdiction to settle any disputes arising out of, or in connection with, the client bank account acknowledgement letter, its subject matter or formation. 18. If a firm does not, in any client bank account
acknowledgement letter, utilise the governing law and choice of competent jurisdiction that is the same as either or both:

(a) the laws of the jurisdiction under which either the firm or the relevant approved bank are organised; or

(b) as is found in the underlying agreement/s (e.g. banking services agreement) with the relevant approved bank;

then the firm should consider whether it is at risk of breaching ■ CASS 13.4.2R. Authorised signatories

19. A firm is required under ■ CASS 13.5.7R to use reasonable endeavours to ensure that any individual that has countersigned a client bank account acknowledgement letter returned to the firm was authorised to countersign the letter on behalf of the relevant approved bank. 20. If an individual that has countersigned a client bank account acknowledgement letter does not provide the firm with sufficient evidence of their authority to do so then the firm is expected to make appropriate enquiries to satisfy itself of that individual’s authority. 21. Evidence of an individual’s authority to countersign a client bank account acknowledgement letter may include a copy of the approved bank’s list of authorised signatories, a duly executed power of attorney, use of a company seal or bank stamp, and/or material verifying the title or position of the individual countersigning the client bank account acknowledgement letter. 22. A firm should ensure it obtains at least the same level of assurance over the authority of an individual to countersign the client bank account acknowledgement letter as the firm would seek when managing its own commercial arrangements.

Third party administrators

23. If a firm uses a third party administrator (TPA) to carry out the administrative tasks of drafting, sending and processing a client bank account acknowledgement letter, the text “[Signed by [Name of Third Party Administrator] on behalf of [firm]]” should be inserted to confirm that the client bank account acknowledgement letter was signed by the TPA on behalf of the firm. 24. In these circumstances, the firm should first provide the TPA with the requisite authority (such as a power of attorney) before the TPA will be able to sign the client bank account acknowledgement letter on the firm’s behalf. A firm should also ensure that the client bank account acknowledgement letter continues to be drafted on letter-headed paper belonging to the firm.

Client bank accounts

25. A firm must ensure that each of its client bank accounts follows the naming conventions prescribed in the Glossary. This includes ensuring that all client bank accounts include the term ‘client’ in their title or an appropriate abbreviation in circumstances where this is permitted by the Glossary definition. 26. All references to the term “Client Bank Account[s]” in a client bank account acknowledgement letter should also be made consistently in either the singular or plural, as appropriate.
Temporary permissions regime – client assets rules

Chapter 14

Temporary permissions regime – client assets rules
14.1 General application

Who?

14.1.1 R This chapter only applies to a TP firm that has not failed.

What?

14.1.2 R Unless otherwise stated, the rules in CASS 14 apply:

(1) in relation to:

(a) a TP firm’s activities to which CASS 7 applies as a result of GEN 2.2.26R, but subject to CASS 14.1.3R; and

(b) a TP firm’s activities to which CASS 5 or CASS 6 applies as a result of GEN 2.2.26R; and

(2) where those activities are carried on in reliance on the TP firm’s temporary permission.

14.1.3 R CASS 14 does not apply in relation to a TP firm’s activities to which CASS 7 applies if, during the period for which it is has a temporary permission, the TP firm does not hold any client money for the purposes of the rules in CASS 7 that apply as a result of GEN 2.2.26R.

14.1.4 G CASS 14.1.3R may, for example, be relevant to a TP firm that can apply the exclusion from the definition of client money at CASS 7.10.16R(1) (credit institutions) or at CASS 7.11.1R(4) (title transfer collateral arrangements) throughout the period.

14.1.5 G (1) CASS 14 does not apply in relation to a TP firm’s activities which are carried on other than in reliance on its temporary permission. It only applies in relation to the part of its Part 4A permission that the TP firm is treated as having under regulation 8, 11, 28 or 34 of the EU Exit Passport Regulations.

(2) For example, where a TP firm had Part 4A permission immediately before IP completion day to act as trustee or depositary of an AlF or to act as trustee or depositary of a UCITS, and continues to hold that permission, the rules applying to activities under that part of its Part 4A permission are not affected by its temporary permission because of GEN 2.2.26R(1) (see also the guidance at GEN 2.2.37G(3)). In relation to those activities, it should continue to comply with the applicable rules in CASS. It may also consider making the election at
CASS 14 : Temporary permissions regime – client assets rules

CASS 14.3.6R in relation to its activities that are carried on in reliance on the TP firm’s temporary permission.

Where?

14.1.6 R The rules in CASS 14 apply in relation to a TP firm’s activities described at CASS 14.1.2R wherever they are carried on.

14.1.7 G CASS 14.1.6R means that the rules in CASS 14 apply both to activities carried on from a UK branch and activities carried on other than from a UK branch into the UK.
14.2 Temporary permission CASS firm classification

14.2.1 R (1) Subject to paragraphs (2) to (5), this section applies only to a TP firm to which either or both of CASS 6 and CASS 7 apply as a result of GEN 2.2.26R.

(2) In relation to a TP firm to which both CASS 5 and CASS 7 (Client money rules) apply as a result of GEN 2.2.26R, this section does not apply in relation to client money that the TP firm holds in accordance with CASS 5 as a result of GEN 2.2.26R.

(3) The rules in this section apply to a TP firm even if at the date of the determination or, as the case may be, the notification required under them, either or both of CASS 6 and CASS 7 do not apply to it, provided that:

(a) either or both of those chapters applied to it as a result of GEN 2.2.26R during part or all of the previous calendar year; or

(b) it projects that either or both will apply to it as a result of GEN 2.2.26R in the current calendar year.

(4) The rules in this section do not apply to a TP firm to which, as a result of GEN 2.2.26R, only CASS 6 applies, applied or is projected to apply, merely because it is, was, or is projected to be a firm which arranges safeguarding and administration of assets.

(5) The rules in this section do not apply to a TP firm that has notified the FCA of an election made under CASS 14.3.6R.

14.2.2 G This section does not apply to a TP firm to which, as a result of GEN 2.2.26R, CASS 5 applies but neither CASS 6 nor CASS 7 applies.

14.2.3 G The frequency of a TP firm’s reporting obligations under CASS 14.3 depends on the ‘CASS firm type’ within which a TP firm falls. The ‘CASS firm types’ are defined in accordance with CASS 14.2.8R.

14.2.4 R (1) A TP firm must once every year, and by the time it is required to make a notification in accordance with CASS 14.2.9R, determine whether it is a CASS large TP firm, CASS medium TP firm or a CASS small TP firm according to the amount of client money or safe custody assets which it holds, using the limits set out in the table in CASS 14.2.8R.
(2) For the purpose of determining its 'CASS firm type' in accordance with CASS 14.2.8R, a TP firm must:

(a) if it currently holds client money or safe custody assets, calculate the higher of the highest total amount of client money and the highest total value of safe custody assets held during the previous calendar year ending on 31 December, and use that figure to determine its 'CASS firm type';

(b) if it did not hold client money or safe custody assets in the previous calendar year but projects that it will do so in the current calendar year, calculate the higher of the highest total amount of client money and the highest total value of safe custody assets that it projects that it will hold during that year, and use that figure to determine its 'CASS firm type'; but

(c) in either case, exclude from its calculation any client money held in accordance with CASS 5.

14.2.5 For the purposes of CASS 14.2.4R a TP firm should only include client money and safe custody assets that it holds (or is projected to hold) in relation to the TP firm’s activities which are carried on (or projected to be carried on) in reliance of the firm’s temporary permission. It should not include client money and safe custody assets that it holds in reliance of any authorisation in its Home State.

14.2.6 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 calendar year a TP firm must:

(1) in complying with CASS 14.2.4R(2)(a), base its calculation on the reconciliation performed in accordance with CASS 7.15.20R during the previous year;

(2) in relation to client money or safe custody assets denominated in a currency other than sterling, translate the value of that money or those safe custody assets into sterling at the previous day’s closing spot exchange rate; and

(3) in relation to safe custody assets only, calculate their total value using the previous day’s closing mark to market valuation, or if in relation to a particular safe custody asset none is available, the most recent available valuation.

14.2.7 (1) Notwithstanding CASS 14.2.4R, provided that the conditions in (2) are satisfied a TP firm may elect to be treated:

(a) as a CASS medium TP firm, in the case of a TP firm that is classed by the application of the limits in CASS 14.2.8R as a CASS small TP firm; and

(b) as a CASS large TP firm, in the case of a TP firm that is classed by the application of the limits in CASS 14.2.8R as a CASS medium TP firm.

(2) The conditions to which (1) refers are that in either case:

(a) the election is notified to the FCA by email;
(b) the notification in accordance with (a) is made at least one week before the election is intended to take effect; and

(c) the FCA has not objected.

### 14.2.8 CASS firm types

<table>
<thead>
<tr>
<th>CASS firm type</th>
<th>Highest total amount of client money held during the TP firm’s last calendar year or as the case may be that it projects that it will hold during the current calendar year</th>
<th>Highest total value of safe custody assets held by the TP firm during the TP firm’s last calendar year or as the case may be that it projects that it will hold during the current calendar year</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS large TP firm</td>
<td>more than £1 billion</td>
<td>more than £100 billion</td>
</tr>
<tr>
<td>CASS medium TP firm</td>
<td>an amount equal to or greater than £1 million and less than or equal to £1 billion</td>
<td>an amount equal to or greater than £10 million and less than or equal to £100 billion</td>
</tr>
<tr>
<td>CASS small TP firm</td>
<td>Less than £1 million</td>
<td>Less than £10 million</td>
</tr>
</tbody>
</table>

### 14.2.9 Once every calendar year a TP firm must notify to the FCA by email the information specified in (1), (2) or (3) as applicable, and the information specified in (4), in each case no later than the day specified in (1) to (4):

1. If it held client money or safe custody assets in the previous calendar year, the highest total amount of client money and the highest total value of safe custody assets held during the previous calendar year, notification of which must be made no later than the fifteenth business day of January;

2. If it did not hold client money or safe custody assets in the previous calendar year but at any point up to the fifteenth business day of January the TP firm projects that it will do so in the current calendar year, the highest total amount of client money and the highest total value of safe custody assets that the TP firm projects that it will hold during the current calendar year, notification of which must be made no later than the fifteenth business day of January; or

3. In any other case, the highest total amount of client money and the highest total value of safe custody assets that the TP firm projects that it will hold during the remainder of the current calendar year, notification of which must be made no later than the business day before the firm begins to hold client money or safe custody assets; and

4. In every case, of its ‘CASS firm type’ classification, notification of which must be made at the same time the TP firm makes the notification under (1), (2) or (3).

### 14.2.10 For the purpose of the annual notification to which CASS 14.2.9R refers, a TP firm must apply the calculation rule in CASS 14.2.6R.
For the purpose of CASS 14.2.9R(1), the FCA will treat that obligation as satisfied if a TP firm submitted a TPCAR for each period within the previous calendar year in compliance with the rules in CASS 14.3.

A TP firm’s ‘CASS firm type’ and any change to it takes effect if the TP firm:

1. notifies the FCA in accordance with CASS 14.2.9R(1) or CASS 14.2.9R(2), on 1 February following the notification; or
2. notifies the FCA in accordance with CASS 14.2.9R(3), on the day it begins to hold client money or safe custody assets; or
3. makes an election under CASS 14.2.7R(1), and provided the conditions in CASS 14.2.7R(2) are satisfied, on the day the notification made under CASS 14.2.7R(2)(a) states that the election is intended to take effect.

Any written notification made to the FCA under this chapter should be marked for the attention of: “Client Assets TP Firm Classification”.

CASS 14 : Temporary permissions regime – client assets rules

Section 14.2 : Temporary permission CASS firm classification
14.3 Temporary Permission Client Assets Return

14.3.1 (1) A TP firm must submit a completed TPCAR to the FCA by email for each reporting period specified in CASS 14.3.3R.

(2) The TP firm must submit the TPCAR to the FCA by the deadline specified in CASS 14.3.4R.

(3) A TPCAR must be completed using the template specified at CASS 14 Annex 1R.

14.3.2 Guidance notes on completing a TPCAR are available at CASS 14 Annex 2G.

14.3.3 The TPCAR reporting periods for the purposes of CASS 14.3.1R are:

(1) for TP firms to which either or both of CASS 6 and CASS 7 applies as a result of GEN 2.2.26R, either:
   (a) for CASS small TP firms, the initial twelve-month period 1 January 2021 to 31 December 2021, and each subsequent 12-month period; or
   (b) for CASS medium TP firms and CASS large TP firms, the initial one-month period from 1 January 2021 to 31 January 2021, and each subsequent one-month period; and

(2) for TP firms to whom as a result of GEN 2.2.26R, CASS 5 applies:
   (a) if the TP firm’s annual revenue from its business to which CASS 5 applies as a result of GEN 2.2.26R is £5 million or less:
      (i) the shorter of:
         (A) the initial period from 1 January 2021 to the firm’s accounting reference date, and
         (B) the initial period from 1 January 2021 to the last day of the six-month period after the firm’s accounting reference date; and
      (ii) each six-month period subsequent to the shorter of those initial periods; or
   (b) if the TP firm’s annual revenue from its business to which CASS 5 applies as a result of GEN 2.2.26R exceeds £5 million:
      (i) the shorter of:
(A) the initial period from 1 January 2021 to the firm’s accounting reference date, and
(B) the initial period from 1 January 2021 to the last day of the three-month period after the firm’s accounting reference date; and
(ii) each three-month period subsequent to the shorter of those initial periods.

14.3.4 The TPCAR submission deadlines for the purposes of §CASS 14.3.1R are:

(1) for TP firms to which either or both of §CASS 6 and §CASS 7 applies as a result of §GEN 2.2.26R, either:
   (a) for CASS small TP firms the 15th business day of the month that follows the reporting period specified in §CASS 14.3.3R(1)(a); or
   (b) for CASS medium TP firms and CASS large TP firms, the 15th business day of the month that follows the reporting period specified in §CASS 14.3.3R(1)(b); and

(2) for TP firms to which §CASS 5 applies as a result of §GEN 2.2.26R, the 30th business day after the relevant reporting period specified in §CASS 14.3.3R(2).

14.3.5 If both §CASS 14.3.3R(1) and (2) apply to a TP firm, then it should submit a completed TPCAR to the FCA to cover each reporting period that applies to it, by the relevant submission deadline in §CASS 14.3.4R(1) and (2).

(2) In those cases:
   (a) a TP firm should only complete Part 1 and Part 2 of any TPCAR that is for a reporting period specified under §CASS 14.3.3R(1); and
   (b) it should only complete Part 1 and Part 3 of any TPCAR that is for a reporting period specified under §CASS 14.3.3R(2).

Election to use the CMAR for TP firms that had a Part 4A permission before IP completion day

14.3.6 (1) This rule applies to a TP firm to which §SUP 16.14.3R (Client money and asset return) applies as a result of §GEN 2.2.26R(1), on the basis that it has classified itself as a CASS large firm or a CASS medium firm for the purposes of §CASS 1A.

(2) A TP firm may comply with §SUP 16.14.3R instead of §CASS 14.3.1R provided that it has notified the FCA in advance and by email that it has elected to do so.

(3) A TP firm that makes the election under this rule must, when completing data field 8 of the CMAR:
   (a) use a separate row to distinguish between types of business activity or services which are carried on in reliance of the firm’s temporary permission and types which are not; and
(b) clearly indicate which rows relate to a business activity or service which is carried on in reliance of the firm’s temporary permission.

(1) See GEN 2.2.37G(3) for an explanation of the effect of GEN 2.2.26R(1) and CASS 14.1.5G.

(2) CASS 14.3.6R may be relevant to a TP firm that had a Part 4A permission immediately before IP completion day for acting as trustee or depositary of an AIF or acting as trustee or depositary of a UCITS and continues to hold that permission.

(3) In complying with CASS 14.3.6R(3):

(a) a TP firm should observe the guidance at SUP 16 Annex 29AG (Guidance notes for the data item in SUP 16 Annex 29R) in relation to data field 8 of the CMAR and, therefore, distinguish between each different type of business activity or service which it carries on in reliance its temporary permission, as well as between each type which it carries on under its Part 4A permission;

(b) a TP firm could, for example, annotate each row which relates to a business activity or service which is carried on in reliance of the firm’s temporary permission by including the letters “TP” in data field 8A; and

(c) if a TP firm follows sub-paragraph (b), the overall effect may be that data field 8 includes a number of rows that are prefaced with “TP” (for example, “TP CFD business” and “TP share custody business”) and a number of rows that are not (for example, “AIF depositary business” and “UCITS depositary business”).
14.4 Temporary permission auditor’s report

14.4.1 This section does not apply in relation to a TP firm to which only CASS 5 applies as a result of GEN 2.2.26R.

14.4.2 Subject to CASS 14.4.3R, a TP firm to which this section applies must ensure that the FCA receives any report made by its external auditors pursuant to a requirement in its Home State that implements article 8 of the MiFID Delegated Directive, in the following circumstances:

(1) where the auditor’s report confirms that the TP firm’s arrangements referred to in article 8 of the MiFID Delegated Directive are not adequate; or

(2) in response to a request made by the FCA to the TP firm in writing.

14.4.3 (1) If the TP firm did not have a temporary permission during the entire period covered by an auditor’s report, that auditor’s report is excluded from the requirement under CASS 14.4.2R.

(2) Where the auditor’s report required under CASS 14.4.2R is not in English, the TP firm must ensure that the FCA receives both the auditor’s report and an English translation of it.

14.4.4 (1) A TP firm must ensure that any auditor’s report and English translation which are required to be provided to the FCA under this section are sent by email.

(2) In the case of an auditor’s report, this must be sent:

(a) where CASS 14.4.2R(1) applies, as soon as it is made available to the relevant Home State regulator; and

(b) where CASS 14.4.2R(2) applies, immediately on the FCA’s written request.

(3) In the case of an English translation, this must be sent:

(a) where CASS 14.4.2R(1) applies, within one month of the auditor’s report being made available to the relevant Home State regulator; and

(b) where CASS 14.4.2R(2) applies, within one month of the FCA’s written request.
Where a TP firm intends to rely on another person to send an auditor’s report to the FCA under this section, it must inform the FCA in advance of that person’s identity by email.

The rules in this section apply regardless of whether the scope of an auditor’s report includes a TP firm’s activities specified in CASS 14.1.2R.
14.5 Client information

14.5.1 A TP firm must provide any client in respect of which it carries on the activities specified in CASS 14.1.2R with the following information (the “TP Firm CASS Disclosure”) in English and in a durable medium:

(1) any non-UK jurisdiction under which the TP firm’s failure may be administered; and

(2) unless such an outcome is not possible under the law of that jurisdiction as it applies on IP completion day, a statement that makes clear the possibility that any client money or safe custody assets belonging to that client will, as a result of the law of that jurisdiction, be treated differently to money or assets belonging to other customers of the TP firm in the event of the TP firm’s failure.

14.5.2 (1) A firm must ensure that the “TP Firm CASS Disclosure” is not obscured by or disguised within other information.

(2) Where a firm provides the “TP Firm CASS Disclosure” amidst or alongside other information, it must ensure that it uses a font size for the ‘TP Firm CASS Disclosure’ that is at least equal to the predominant font size used throughout the information provided, as well as a layout that ensures the “TP Firm CASS Disclosure” is prominent.

14.5.3 (1) To comply with CASS 14.5.1R(1) it is sufficient to name the jurisdiction. For example, this may be the name of the TP firm’s Home State, or an administrative region within it.

(2) In order to comply with CASS 14.5.1R(2), a TP firm should carefully consider the applicable law and insolvency rules in question as at IP completion day when deciding whether or not a statement is required to be given under that provision. For example, it could obtain a legal opinion on whether the law differentiates between the treatment of different classes of clients. If, following such careful consideration, the firm cannot rule out the possibility of different treatment, then it should make the statement under CASS 14.5.1R(2).

14.5.4 The “TP Firm CASS Disclosure” under CASS 14.5.1R is not required where a firm complies with those requirements of CASS 5, CASS 6 or CASS 7 that are applied under GEN 2.2.26R without needing to safeguard client money or safe custody assets.
Situations falling under CASS 14.5.4R include where, for example, the TP firm relies on:

1. CASS 5.1.5R(1)(b) or (2);
2. CASS 7.10.6R; or
3. GEN 2.2.26R(3) or (4) and takes the approach set out in article 10.6.a, 10.6.b or 10.6.d of IDD.

A TP firm must provide the “TP Firm CASS Disclosure” under CASS 14.5.1R to a client:

1. where it safeguards client money or safe custody assets for the client on IP completion day, on that date (unless it has taken steps before that date which would have complied with the requirements under CASS 14.5.1R and CASS 14.5.2R); or
2. otherwise, in good time before it safeguards client money or custody assets for the client.
14.6 Tied agents and appointed representatives of TP firms

14.6.1  
(1) CASS does not apply directly to a TP firm’s appointed representative or tied agent.

(2) A TP firm will be responsible for the acts and omissions of its appointed representatives and tied agents in carrying on business for which the TP firm has accepted responsibility.

(3) In determining whether a TP firm has complied with any provision of CASS, anything done or omitted by a TP firm’s appointed representative or tied agent (when acting as such) will be treated as having been done or omitted by the TP firm.

(4) CASS 14.6.2R further restricts the possibility of appointed representatives and tied agents of TP firms from receiving or holding client money and safe custody assets. But that rule does not apply in relation to the business of an appointed representative or tied agent of a TP firm in respect of which CASS 5 would apply to the TP firm as a result of GEN 2.2.26R.

14.6.2  
A TP firm must not permit an appointed representative or tied agent to receive or hold client money or safe custody assets in the course of or in connection with any of their business in respect of which CASS 6 or CASS 7 would apply to the TP firm as a result of GEN 2.2.26R.
Temporary permissions client asset return (TPCAR)

[Note: A firm must answer all the questions in Part 1. A firm must also complete either Part 2 or Part 3, depending on the answer to question 1.1.3. Further guidance notes are available at CASS 14 Annex 2G.]
Guidance notes for the TPCAR

1. This annex contains guidance on the TPCAR and is therefore only relevant to a firm that is subject to CASS 14.3.

2. Italicised terms in the TPCAR have the same meaning as in the Glossary.

3. A firm is reminded of its obligation to determine their “CASS firm type” categorisation in accordance with CASS 14.2.8R.

4. A firm should complete Part 1 and either Part 2 or Part 3, depending on whether it is reporting on investment services and activities or insurance distribution activities. See also the guidance at CASS 14.3.5G for firms that carry on both sorts of activities under their temporary permission.

5. For the purposes of the TPCAR, the FCA does not prescribe any particular methodology or frequency for valuing safe custody assets.

6. Guide for completing individual questions in the TPCAR:

<table>
<thead>
<tr>
<th>PART 1 - TO BE COMPLETED BY ALL TP FIRMS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 1.1 - Scope of this return</strong></td>
</tr>
<tr>
<td>1.1.1 What is the reporting period start date for this return?</td>
</tr>
<tr>
<td>1.1.2 What is the reporting period end date for this return?</td>
</tr>
<tr>
<td>The reporting period is a calendar period for which the TPCAR is required to be completed in accordance with CASS 14.3.1R, including the first day and the last day of the relevant period applicable to the firm. The first reporting period starts from 1 January 2021.</td>
</tr>
<tr>
<td>For example:</td>
</tr>
<tr>
<td>• For a firm conducting investment services or activities under their temporary permission which is subject to monthly reporting under CASS 14.3.3R, the first reporting period will be 1 January 2021 to 31 January 2021, regardless of whether or not any day in January is a business day.</td>
</tr>
<tr>
<td>• For a firm conducting insurance distribution activities under their temporary permission which is subject to half-yearly reporting under CASS 14.3.3R and has an accounting reference date of 31 March, the first reporting period will be 1 January 2021 to 31 March 2021, regardless of whether or not any day in this period is a business day. The next reporting period for such a firm will be 1 April 2021 to 30 September 2021.</td>
</tr>
<tr>
<td>1.1.3 Does this return report on:</td>
</tr>
<tr>
<td>- investment services and activities, to which CASS 6 or CASS 7 apply as a result of GEN 2.2.26R; or</td>
</tr>
<tr>
<td>- insurance distribution activities, to which CASS 5 applies as a result of GEN 2.2.26R?</td>
</tr>
</tbody>
</table>
| A firm should identify the relevant activity in the course of which it holds client money or safe custody assets under its temporary permission and answer either “investment services or activities” or “insurance distribution activities”.

If a firm is conducting both activities in the course of which it holds client money or safe custody assets under its temporary permission, then it will need to complete a separate TPCAR for each activity.
### PART 1 - TO BE COMPLETED BY ALL TP FIRMS

#### Section 1.2 - Location of activities

1.2.1 Did the firm conduct the activities to which this return relates from an establishment in the UK?

A firm should answer either “Yes” or “No”. For example, a firm should answer “Yes” if, during the reporting period, it conducted the above activities from a branch in the UK.

#### Section 1.3 - Compliance

1.3.1 During the reporting period, did the firm have any breaches of its obligations under CASS 14?

A firm should answer either “Yes” or “No”.

1.3.2 During the reporting period, did the firm obtain an external auditor’s report on the adequacy of the firm’s arrangements under its client assets obligations?

A firm should answer either “Yes” or “No”.

#### Section 1.4 - Solvency

1.4.1 During the reporting period, were there any issues with the firm’s solvency?

A firm should answer either “Yes” or “No”.

#### Section 1.5 - Other issues

1.5.1 During the reporting period, were there any other issues with the firm in relation to its obligations under CASS which applied as a result of GEN 2.2.26R? If so, please provide a brief description.

A firm should describe any issues not covered by the TPCAR that may be relevant in respect of holding client money or safe custody assets to which CASS applies as a result of GEN 2.2.26R during the reporting period.

### PART 2 - FOR REPORTING ON INVESTMENT SERVICES OR ACTIVITIES

2.1.1 During the reporting period, did the firm hold client money and/or safe custody assets in relation to activities carried on in reliance of the firm’s temporary permission to which CASS 6 or CASS 7 apply as a result of GEN 2.2.26R?

A firm should answer either “Yes” or “No”.

2.1.2 What was the highest balance of client money held in relation to activities carried on in reliance of the firm’s temporary permission, in relation to which CASS 7 applies as a result of GEN 2.2.26R?

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

A firm should ensure that it includes in the amount reported any client money that it is holding, which has or have been placed with a third party custodian, either by a custodian with which that firm has deposited those client money, or by that firm if it is a custodian.

A firm should determine the highest figures by reference to the data that it has recorded from its reconciliations required under article 2(1)(c) of the MiFID Delegated Directive that relate to the reporting period in question.

2.1.3 What was the highest amount of safe custody assets held in relation to activities carried on in reliance of the firm’s temporary permission, in relation to which CASS 6 applies as a result of GEN 2.2.26R?

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

A firm should ensure that it includes in the amount reported any safe custody assets that it is holding, which has or have been placed with a third party custo
**PART 2 - FOR REPORTING ON INVESTMENT SERVICES OR ACTIVITIES**

dian, either by a custodian with which that firm has deposited those safe custody assets, or by that firm if it is a custodian.

A firm should determine the highest figures by reference to the data that it has recorded from its reconciliations required under article 2(1)(c) of the MiFID Delegated Directive that relate to the reporting period in question.

2.1.4 What percentage of the client money reported in Question 2.1.2 was deposited with a bank or a qualifying money market fund in the same group as the firm (article 4, MiFID Delegated Directive)?

A firm should state what percentage of client money are held with a credit institution, bank or qualifying money market fund of the same group as the firm.

2.1.5 What was the frequency of reconciliations between the firm's internal accounts and records and those of any third party with whom the client money reported in Question 3 was held (article 2(1)(c), MiFID Delegated Directive)?

A firm should identify the frequency of its reconciliations in respect of client money required by article 2(1)(c) of MiFID Delegated Directive and answer either “Daily”, “Quarterly”, “Monthly”, “Annually” or “Other”.

2.1.6 What was the frequency of reconciliations between the firm's internal accounts and records and those of any third party with whom the safe custody assets reported in Question 2.1.2 were held (article 2(1)(c), MiFID Delegated Directive)?

A firm should identify the frequency of its reconciliations in respect of safe custody assets required by article 2(1)(c) of MiFID Delegated Directive and answer either “Daily”, “Quarterly”, “Monthly”, “Annually” or “Other”.

2.1.7 Did the firm resolve all discrepancies identified by its reconciliations referred to in Questions 7 and 8 as applicable (article 2(1)(c), MiFID Delegated Directive)?

A firm should answer either “Yes” or “No”.

2.1.8 Were there any changes to the firm’s officer responsible for compliance with obligations relating to safeguarding of client assets appointed pursuant to article 7 of the MiFID Delegated Directive?

A firm should answer either “Yes” or “No”.

2.1.9 Did the firm have any breaches of its obligations to segregate and/or keep records in accordance with its obligations under CASS 6 or 7 which applied as a result of GEN 2.2.26R?

A firm should answer either “Yes” or “No”.

**PART 3 - FOR REPORTING ON INSURANCE DISTRIBUTION ACTIVITIES**

3.1.1 During the reporting period, did the firm hold money in relation to activities carried on in reliance of the firm’s temporary permission to which CASS 5 applies as a result of GEN 2.2.26R?

A firm should answer either “Yes” or “No”.

3.1.2 How did the firm protect such money in accordance with article 10.6 of the IDD?

This question should only be answered if a firm answered “Yes” in Question 3.1.1.

A firm should answer “Contractual risk transfer to the insurer”, “Holding customers’ monies in segregated customer accounts”, “Holding capital on a permanent basis” or “A guarantee fund”.

A firm’s answer may depend on which of these methods are permitted by its Home State’s implementation of the IDD.

More than one answer may be given if the firm protects money using more than one of these methods.
### PART 3 - FOR REPORTING ON INSURANCE DISTRIBUTION ACTIVITIES

| 3.1.3 | What was the highest balance of money held by the firm in relation to activities carried on in reliance of the firm’s temporary permission to which CASS 5 applies as a result of GEN 2.2.26R?  
This question should only be answered if a firm answered “Yes” in Question 11. A firm should take into account the amount recorded in the firm’s records that relate to the reporting period in question. A firm should also take into account money held in all the possible methods of holding such money under IDD. |
| 3.1.4 | Did the firm have any breaches of its obligations to segregate and/or keep records in accordance with its obligations under CASS 5 which applied as a result of GEN 2.2.26R?  
A firm should answer either “Yes” or “No” |
## Client Assets

### CASS TP 1

#### Transitional Provisions

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<tr>
<td>1AZ</td>
<td>The changes to the Glossary in Annex A and to CASS in Annex B of the Client Assets (Client Money and Custody Assets Distribution and Transfers) Instrument 2017</td>
<td>R</td>
<td>In relation to a firm:</td>
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<td>(i) that has failed; or</td>
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<td>(ii) in respect of which a primary pooling event occurred,</td>
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<td>in either case before the changes in column (2) took effect, the changes effected by the provisions in the Annex listed in column (2) do not apply to the firm, and therefore the provisions in CASS amended by that Annex will continue to apply as they were in force as at 25 July 2017.</td>
<td>Indefinitely</td>
<td>26 July 2017</td>
</tr>
<tr>
<td>-1A</td>
<td>CASS 1A.3.1 R</td>
<td></td>
<td>A firm which has only an interim permission may allocate responsibility for the functions described in this rule to any director or senior manager.</td>
<td>For as long as the firm has only an interim permission.</td>
<td></td>
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<tr>
<td>-1B</td>
<td>CASS 1A.3.1 C</td>
<td></td>
<td>A firm which has only an interim permission, and which is in the situation described in this rule: (1) need not comply with CASS 1A.3.1 CR (1); and (2) need only allocate responsibility for the functions described in CASS 1A.3.1 CR (2) to any director or senior manager.</td>
<td>For as long as the firm has only an interim permission.</td>
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<tr>
<td>-1</td>
<td>CASS 1A R</td>
<td></td>
<td>Expired</td>
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<tr>
<td>1</td>
<td>CASS 2 to CASS 4</td>
<td>R</td>
<td>[deleted]</td>
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<tr>
<td>2</td>
<td>Every rule in the Handbook</td>
<td>R</td>
<td>Expired</td>
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<td>2A</td>
<td></td>
<td>G</td>
<td>Expired</td>
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<td>3</td>
<td>CASS 5.1 to CASS 5.6</td>
<td>R</td>
<td>Apply in relation to money (and where appropriate designated investments) held by a firm on 14 January 2005 (being money or designated investments to which CASS 5.1 to CASS 5.6 would not otherwise apply) to the extent that such</td>
<td>Indefinitely</td>
<td>14 January 2005</td>
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*Note: The text is extracted from the CASS Handbook and is a snapshot of the transitional provisions as of May 2024.*
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<td></td>
<td>money (or designated investments) relate to business carried on before 14 January 2005 and which would, if conducted on or after 14 January 2005, be an insurance mediation activity and if conducted on or after 1 October 2018, be an insurance distribution activity.</td>
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<tr>
<td>3A</td>
<td>CASS 5.1 to CASS 5.6</td>
<td>R</td>
<td>Apply in relation to money (and where appropriate designated investments) held by a firm on 1 October 2018 (being money or designated investments to which CASS 5.1 to CASS 5.6 would not otherwise apply) to the extent that such money (or designated investments) relate to business carried on before 1 October 2018 and which would, if conducted on or after 1 October 2018, be re-insurance distribution.</td>
<td>Indefinitely</td>
<td>1 October 2018</td>
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<tr>
<td>4</td>
<td>CASS 5.1.5A R</td>
<td>R</td>
<td>Expired</td>
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<tr>
<td>5</td>
<td>CASS 5.3.2 R</td>
<td>R</td>
<td>Expired</td>
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<td>6</td>
<td>CASS 5.4.7 R</td>
<td>R</td>
<td>Expired</td>
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<td>7</td>
<td>CASS 5.5.65 R</td>
<td>R</td>
<td>Expired</td>
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<tr>
<td>7A</td>
<td>CASS 6.1.6B R</td>
<td>R</td>
<td>Firms need not comply with this rule in respect of any arrangement relating to the transfer of full ownership of a client's safe custody asset to the firm for the purposes set out in CASS 6.1.6 R (1) and CASS 6.1.6A R (1) that existed before 1 December 2014, unless and until the arrangement is materially amended on or after that date. Firms must comply with this rule in respect of any arrangement for such purposes that is entered into on or after 1 December 2014.</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
</tr>
<tr>
<td>7B</td>
<td>CASS 6.1.12 R to CASS 6.1.12C G</td>
<td>R</td>
<td>(1) Firms need not comply with these rules in respect of a business relationship with a particular client consisting of the provision of either or both MiFID business or designated investment</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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### Transitional Provisions

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<td>(4)</td>
<td><em>ment business services that existed before 1 December 2014, unless and until the terms governing the relationship are materially amended on or after that date. Firms must comply with these rules in respect of any such relationship that is entered into on or after 1 December 2014.</em></td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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<td>(2) Where the rules in column (2) are disapplied by (1), CASS 6.1.12 R to CASS 6.1.16 G will continue to apply as they were in force as at 30 November 2014.</td>
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<tr>
<td>7C</td>
<td>CASS 6.3.4B G R</td>
<td></td>
<td>Firms need not comply with this rule in respect of arrangements with third parties with whom it deposits clients' safe custody assets or arranges safeguarding and administration of assets which are clients' safe custody assets that were entered into before 1 December 2014, unless and until they are materially amended on or after that date. Firms must comply with this rule in respect of any arrangements with such third parties that are entered into on or after 1 December 2014.</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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<tr>
<td>8</td>
<td>CASS 6.3.5 R</td>
<td></td>
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<tr>
<td>8A</td>
<td>CASS 6.3.5 R to CASS 6.3.8R R</td>
<td></td>
<td>Expired</td>
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<tr>
<td>9</td>
<td>CASS 6.1.6 R (2) and CASS 6.1.6A R</td>
<td></td>
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<tr>
<td>9A</td>
<td>CASS 7.1.8C R to CASS 7.1.8D R and CASS 7.1.10A R to CASS 7.1.10C R</td>
<td></td>
<td>Firms need not comply with these rules in respect of a business relationship with a particular client that existed before 1 December 2014, unless and until the terms governing the relationship are materially amended on or after that date. Firms must comply with this rule in respect of any such relationship that is entered into on or after 1 December 2014.</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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<tr>
<td>9B</td>
<td>CASS 7.2.3B R R</td>
<td></td>
<td>Firms need not comply with this rule in respect of any arrangement relating to the transfer of full ownership of a client’s money to the firm for the purposes set out in CASS 7.2.3R (1) and CASS 7.2.3AR</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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<td>(1) that existed before 1 December 2014, unless and until the arrangement is materially amended on or after that date. <em>Firms</em> must comply with this <em>rule</em> in respect of any arrangement for such purposes that is entered into on or after 1 December 2014.</td>
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<tr>
<td>9C</td>
<td>CASS 7.10.7AR(2)</td>
<td>R</td>
<td>A <em>firm</em> need not give the FCA at least one month’s notice under this <em>rule</em>, if it informs the FCA immediately at the time of making the election under CASS 7.10.7AR(1).</td>
<td>From 21 March 2016 to 22 April 2016</td>
<td>21 March 2016</td>
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<tr>
<td>9D</td>
<td>CASS 7.10.7BR(1)</td>
<td>R</td>
<td>A <em>firm</em> need not give customers at least one month’s advance notice under this <em>rule</em>, if it informs customers as soon as practicable at the time of making the election under CASS 7.10.7AR(1).</td>
<td>From 21 March 2016 to 22 April 2016</td>
<td>21 March 2016</td>
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<tr>
<td>10</td>
<td>CASS 7.2.3R (2) and CASS 7.2.3AR</td>
<td></td>
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<tr>
<td>10A</td>
<td>CASS 7.13.13R (2)</td>
<td>R</td>
<td>(1) The <em>rule</em> in column (1) applies when a <em>firm</em> enters into a new contract with a bank to provide a <em>client bank account</em>. (2) In relation to an arrangement under which a <em>firm</em> holds a <em>client bank account</em> with a bank that is in place as at the date in column (5), and as soon as it is permitted to do so under that arrangement, the <em>firm</em> must terminate any contract that does not comply with the <em>rule</em> in column (1) and enter into a new contract (in respect of which (1) shall apply). If necessary to comply</td>
<td>Indefinitely</td>
<td>1 July 2014</td>
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<td>with the <em>rule</em> in column (1), a <em>firm</em> must move <em>client money</em> into another <em>client bank account</em> under compliant terms.</td>
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<tr>
<td>10B</td>
<td>CASS 7.2.8AA R to CASS 7.2.8AE R R</td>
<td>(1)</td>
<td>These <em>rules</em> do not apply in respect of a business relationship with a particular <em>client</em> that existed before 1 December 2014, unless and until the terms governing the relationship are materially amended on or after that date. <em>Firms</em> must comply with this <em>rule</em> in respect of any such relationship that is entered into on or after 1 December 2014.</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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<td>(2) Where the <em>rules</em> in column (2) are disapplied by (1), CASS 7.2.8 R to CASS 7.2.11 G will continue to apply as they were in force as at 30 November 2014.</td>
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<tr>
<td>10C</td>
<td>CASS 7.4.17B R to CASS 7.4.19C R R</td>
<td>(1)</td>
<td><em>Firms</em> that are operating the alternative approach for any business line on 30 November 2014, having previously sent a written confirmation to the FCA under CASS 7.4.15 R, need not comply with the <em>rules</em> in column (1) for such business line during the period in column (5) and may continue to segregate <em>client money</em> during that period for such business line on the basis set out in that confirmation to the FCA, unless and until during the period in column (5) they start complying with CASS 7.4.18A R to CASS 7.4.19C R for such business line having already complied with CASS 7.4.17B R to CASS 7.4.17E R.</td>
<td>From 1 December 2014 to 31 May 2015</td>
<td>1 December 2014</td>
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<td>(2) In circumstances where the <em>rules</em> in column (2) are disapplied by (1), CASS 7.4.16 G to CASS 7.4.19 G will continue to apply as they were in force as at 30 November 2014.</td>
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<tr>
<td>10D</td>
<td>CASS 7.6.6A R R</td>
<td>(1)</td>
<td>A <em>firm</em> operating an internal reconciliation of <em>client money</em> balances that is not a <em>standard method of internal client money reconciliation</em> as at 30 November 2014 need not comply with this <em>rule</em>, except to the extent referred to in (3).</td>
<td>From 1 December 2014 to 31 May 2015</td>
<td>1 December 2014</td>
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<td>(2) Where a <em>firm</em> does not comply with the <em>rule</em> in column (2) in accordance with (1), CASS 7.6.7 R and CASS 7.6.8 R will continue to apply to that <em>firm</em> as they were in force as at 30 November 2014.</td>
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<td></td>
<td>(3)(a) In order for a <em>firm</em> within (1) to operate an internal reconciliation that is not a <em>standard method of internal client money reconciliation</em> on 1 June 2015 it</td>
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<td>(b) A firm within paragraph (1) that materially changes its internal reconciliation method that is not a standard method of internal client money reconciliation on or after 1 December 2014 must, notwithstanding (1), comply with the rule in column (2) from the date it makes these material changes.</td>
<td>(1) Where the conditions in (2) are met in respect of a firm’s client bank account or client transaction account, the changes effected by the provisions in the Annex listed in column (2) do not apply to the firm in respect of the client bank account or client transaction account and therefore the provisions in CASS 7.8.1 R and CASS 7.8.2 R amended by that Annex will continue to apply as they were in force as at 31 November 2014.</td>
<td>From 1 December 2014 to 1 June 2015</td>
<td>1 December 2014</td>
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10E The changes to CASS 7.8 in Part 2 of Annex C of the Client Assets Sourcebook (Amendment No 5) Instrument 2014
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<td>(2) The conditions are: (a) the <em>client bank account</em> or <em>client transaction account</em> was opened by the <em>firm</em> before 1 December 2014; (b) the firm complied with CASS 7.8.1 R or CASS 7.8.2 R (as appropriate) in respect of the <em>client bank account</em> or <em>client transaction account</em> before 1 December 2014; and (c) the <em>client bank account</em> or <em>client transaction account</em> is not transferred to another person during the period in column (5).</td>
<td>From 22 January 2018 to the date on which the relevant direction referred to in column (4) ceases to have effect.</td>
<td>22 January 2018</td>
</tr>
<tr>
<td>10EA</td>
<td>The changes to CASS in Annex A of the Client Assets (Term Deposits) Instrument 2018</td>
<td>R</td>
<td>The changes effected by the provisions in the Annex listed in column (2) do not apply to any <em>firm</em> in respect of which: (1) prior to 22 January 2018 the FCA has directed under s.138A of the Act that CASS 7.13.13R(3) be applied with modifications; and (2) such a direction is in effect on 22 January 2018.</td>
<td></td>
<td>22 January 2018</td>
</tr>
<tr>
<td>10F</td>
<td>CASS 7.18.3(3)</td>
<td>R</td>
<td>A <em>firm</em> will not be in breach of the requirement under this rule to not allow the relevant <em>person</em> to hold any <em>client money</em> in a <em>client transaction account</em> maintained by that <em>person</em> for the <em>firm</em> unless the <em>firm</em> has received a duly countersigned <em>client transaction account acknowledgement letter</em> from that <em>person</em>, provided that: (i) the breach is only in respect of a failure to use the template in CASS 7 Annex 3R, where such failure results only from amendments to the template made under the Client Assets (Indirect Clearing) Instrument 2017; and (ii) the relevant <em>client transaction account</em> is identified in a letter that was countersigned and returned to the <em>firm</em> before 3 January 2018, and which met the requirements of CASS 7.18.3R(3) immediately before the Client Assets (Indirect Clearing) Instrument 2017 came into force.</td>
<td>3 January 2018 to 3 March 2018</td>
<td>1 June 2015</td>
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<tr>
<td>11</td>
<td>CASS 7 and CASS 7A</td>
<td>R</td>
<td>Expired</td>
<td></td>
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<tr>
<td>12</td>
<td>CASS 7 and CASS 7A</td>
<td>R</td>
<td>(1) The rules in column (2) apply to an <em>operator of an electronic system in relation to lending</em> where the FCA or PRA has granted an application made by the <em>firm</em> for <em>Part 4A permission</em> and an <em>interim permission</em> the <em>firm</em> was treated as having has ceased to have effect.</td>
<td>Indefinitely</td>
<td>1 April 2014</td>
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<td>(2) The rules in column (2) apply in rela-</td>
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<td>provision to money held by the firm on the date on which the written notice given by the FCA or PRA under section 55V(5) of the Act takes effect, to the extent that such money was received, or is held in the course of or in connection with the operation of an electronic system in relation to lending carried on before that date (or business carried on before 1 April 2014 and which would, if conducted on or after 1 April 2014, be money which was received, or held in the course of or in connection with the operation of an electronic system in relation to lending).</td>
<td>12A</td>
<td>CASS 9.4</td>
<td>R</td>
<td>Firms need not comply with this rule in respect of a business relationship with a particular client consisting of the provision of either or both MiFID business or designated investment business services that existed before 1 December 2014, unless and until the terms governing the relationship are materially amended on or after that date. Firms must comply with this rule in respect of any such relationship that is entered into on or after 1 December 2014.</td>
</tr>
<tr>
<td>13</td>
<td>CASS 11</td>
<td>R</td>
<td>(1) CASS 11 does not apply to a CASS debt management firm which is a not-for-profit debt advice body treated as having</td>
<td>Indefinitely</td>
<td>1 April 2014</td>
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<td></td>
<td>Part 4A permission on and after 1 April 2014 by virtue of article 60 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 until 1 October 2014, if the firm acts in accordance with the provisions of paragraphs 3.42 and 3.43 of the Debt management (and credit repair services) guidance (OFT366rev) previously issued by the Office of Fair Trading, as they were in effect immediately before 1 April 2014.</td>
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<tr>
<td>(2)</td>
<td>CASS 11 applies in relation to money held by a CASS debt management firm within (1) on 1 October 2014 to the extent that such money was received, or is held on behalf of an individual, in the course of or in connection with debt management activity carried on before that date (or business carried on before 1 April 2014 and which would, if conducted on or after 1 April 2014, be a debt management activity).</td>
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</tr>
<tr>
<td>14</td>
<td>CASS 11 R</td>
<td>(1) This rule applies to a CASS debt management firm where the FCA or PRA has granted an application made by the firm for Part 4A permission and an interim permission the firm was treated as having ceased to have effect.</td>
<td>Indefinitely</td>
<td>1 April 2014</td>
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<tr>
<td></td>
<td>(2) CASS 11 applies in relation to money held by the CASS debt management firm on the date on which the written notice given by the FCA or PRA under section 55V(5) of the Act takes effect, to the extent that such money was received, or is held on behalf of an individual, in the course of or in connection with debt management activity carried on before that date (or business carried on before 1 April 2014 and which would, if conducted on or after 1 April 2014, be a debt management activity).</td>
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</tr>
<tr>
<td>(15)</td>
<td>CASS 13 R</td>
<td>CASS 13 applies in relation to money held by the firm on 1 April 2019 to the extent that such money was received or is held on behalf of an individual, in the course of or in connection with the performance of activities which were:</td>
<td>Indefinitely</td>
<td>1 April 2019</td>
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<td>(a) carried on before 1 April 2019; and</td>
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<td>(b) would, if carried on after that date, be regulated claims management activities.</td>
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<tr>
<td>(16)</td>
<td>CASS 13</td>
<td>G</td>
<td>The <em>rule</em> in (15) applies to the <em>firm</em> irrespective of whether it has a <em>claims management temporary permission</em> or a <em>Part 4A permission</em>.</td>
<td>Indefinitely</td>
<td>1 April 2019</td>
</tr>
</tbody>
</table>
Client Assets

Schedule 1
Record keeping requirements

Sch 1.1 G
The aim of the guidance in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

Sch 1.2 G
It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 1.3 G

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 1A.3.3 R</td>
<td>Allocation of the CASS oversight responsibilities in CASS 1A.3.1 R, of the CASS operational oversight function, or of the responsibilities in CASS 1A.3.1C R (2), as relevant</td>
<td>The person to whom the CASS oversight responsibilities have been allocated, subject to the provisions of CASS 1A.3.3 R, to whom the CASS operational oversight function has been allocated in accordance with CASS 1A.3.1A R, or to whom the responsibilities in CASS 1A.3.1C R (2) have been allocated</td>
<td>Upon allocation</td>
<td>5 years (from the date the record was made)</td>
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</tr>
<tr>
<td>CASS 5.1.1 R (4)</td>
<td>Record of election of compliance with specified CASS rules</td>
<td>Record of compliance with specified CASS rules</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td>CASS 5.2.3 R (2)</td>
<td>Holding client money as agent</td>
<td>The terms of the agreement</td>
<td>Not specified</td>
<td>Six years</td>
</tr>
<tr>
<td>CASS 5.4.4 R (2)</td>
<td>Adequacy of systems and controls</td>
<td>Written confirmation of adequate systems and controls from its auditor</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td>CASS 5.5.84 R</td>
<td>Client money calculation</td>
<td>Whether the firm calculates its client money requirements according to CASS 5.5.84 R or CASS 5.5.84 R</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td>CASS 5.5.84 R</td>
<td>Transactions and commitments for client money</td>
<td>Explanation of the firm's transactions and commitments for client money</td>
<td>Not specified</td>
<td>Three years</td>
</tr>
<tr>
<td>CASS 5.8.3 R (1)</td>
<td>Client's title to a contract of insurance</td>
<td>Identity of such documents and/or property and dates received and delivered to client</td>
<td>Not specified</td>
<td>Three years</td>
</tr>
<tr>
<td>CASS 6.1.6BR (3)</td>
<td>Written agreement regarding any arrangement relating to a TTCA</td>
<td>The agreement</td>
<td>When agreement made</td>
<td>From the date the agreement is entered into and until five years after the agreement is terminated</td>
</tr>
<tr>
<td>CASS 6.1.8AR(1) and (2)</td>
<td>Client's communication to firm of wish to terminate TTCA</td>
<td>Client's communication of wish to terminate TTCA</td>
<td>When communication made</td>
<td>Five years (from date of communication)</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
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<tr>
<td>CASS 6.1.8AR (4)</td>
<td>Firm's response to client's wish to terminate TTCA</td>
<td>Firm's response to client's wish to terminate TTCA</td>
<td>When notification given</td>
<td>Five years (from date of communication)</td>
</tr>
<tr>
<td>CASS 6.1.12R(5)</td>
<td>Firm's segregation of money as client money under this rule</td>
<td>Description of safe custody asset in question, identity of relevant client, amount of money segregated</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.1.12E R</td>
<td>Client's agreement to firm's use of exemption in CASS 6.1.12 R</td>
<td>Client's written agreement</td>
<td>At the time of client's agreement</td>
<td>During the time the firm makes use or intends to make use of the exemption in CASS 6.1.12 R in respect of that client's safe custody assets</td>
</tr>
<tr>
<td>CASS 6.1.16CR (3)</td>
<td>A personal investment firm that temporarily holds a client's designated investments which is not in the course of MiFID business</td>
<td>Client details and any actions taken by the firm</td>
<td>5 years (from the making of the record)</td>
<td></td>
</tr>
<tr>
<td>CASS 6.1.16K R</td>
<td>Client custody assets which the firm has arranged for another to hold or receive</td>
<td>Full details</td>
<td>On receipt</td>
<td>5 years</td>
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<tr>
<td>CASS 6.2.15 R</td>
<td>Safe custody assets divested by the firm under CASS 6.2.10 R</td>
<td>Details of asset divested, relevant documentation and the firm's attempts to contact the client concerned</td>
<td>When asset divested</td>
<td>Indefinite</td>
</tr>
<tr>
<td>CASS 6.3.2AR (1)</td>
<td>Appropriateness of a firm's selection of a third party</td>
<td>Grounds upon which a firm satisfies itself as to the appropriateness of the firm's selection of a third party to hold safe custody assets belonging to clients</td>
<td>Date of the selection</td>
<td>5 years (from the date the firm ceases to use the third party to hold safe custody assets belonging to clients)</td>
</tr>
<tr>
<td>CASS 6.3.2AR (2)</td>
<td>A firm's periodic review into the selection and appointment of a</td>
<td>Date of review, actions taken by the firm in reviewing the selection and appointment of a</td>
<td>On the date of the review</td>
<td>Five years (from the date the firm ceases to use the third party to hold safe custody assets belonging to clients)</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
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<td>Retention period</td>
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<tr>
<td>CASS 6.3.1 R</td>
<td>third party under appointment of a third party under CASS 6.3.1 R, and grounds upon which the firm continues to be satisfied of appropriateness of its selection of that third party to hold safe custody assets belonging to clients</td>
<td>party to hold safe custody assets belonging to clients</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
<td></td>
</tr>
<tr>
<td>CASS 6.3.6AR(2)</td>
<td>Granting of se- Recording of the granting of security interests, liens or rights of set-off in the firm’s books and records</td>
<td>On the firm’s granting, or where the firm has been informed of the granting</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
<td></td>
</tr>
<tr>
<td>CASS 6.4.3 R</td>
<td>Details of clients and safe custody assets used for the firm’s own account or the account of another client of the firm</td>
<td>Details of the client on whose instructions the use of the safe custody assets has been effected and the number of safe custody assets used belonging to each client</td>
<td>Maintain up to date records</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.6.2 R</td>
<td>Safe custody assets held for each client and the firm’s own applicable assets</td>
<td>All that is necessary to enable the firm to distinguish safe custody assets held for one client from safe custody assets held for any other client, and from the firm’s own applicable assets</td>
<td>Maintain up to date records</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.6.3 R</td>
<td>Safe custody assets held for clients</td>
<td>Accurate records which ensure their correspondence to the safe custody assets held for clients</td>
<td>Maintain up to date records</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.5.2A R</td>
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<tr>
<td>CASS 6.5.3 R</td>
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<tr>
<td>CASS 6.6.4 R</td>
<td>Client specific safe custody asset record</td>
<td>Client specific safe custody asset record</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
</tbody>
</table>
| CASS 6.6.6R        | Client agreements that in | A copy of every executed client | Not specified | Not specified (see default pro-
<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
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</thead>
<tbody>
<tr>
<td>CASS 6.6.7 R</td>
<td>Default record keeping provisions for CASS 6</td>
<td>Refer to the rule concerned</td>
<td>Refer to the rule concerned</td>
<td>Five years from the later of:</td>
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<td>(1) the date it was created; and</td>
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<td>(2) if it has been modified since the date in (1), the date it was most recently modified</td>
</tr>
<tr>
<td>CASS 6.6.8 R</td>
<td>Internal custody record checks, physical asset reconciliations and external custody reconciliations carried out by the firm.</td>
<td>Date and actions the firm took when carrying out the relevant process; a list of the discrepancies the firm identified and the actions the firm took to resolve those discrepancies</td>
<td>Immediate</td>
<td>Not specified (see default provision CASS 6.6.7 R)</td>
</tr>
<tr>
<td>CASS 6.6.16 R</td>
<td>Aggregate safe custody asset record</td>
<td>All the safe custody assets the firm holds for its clients, including those deposited with third parties under CASS 6.3 and any physical safe custody assets</td>
<td>Maintain up to date if the firm wishes to use the internal custody reconciliation method</td>
<td>Not specified (see default provision CASS 6.6.7 R)</td>
</tr>
<tr>
<td>CASS 6.6.30 R</td>
<td>Rolling stock method for physical asset reconciliations</td>
<td>Firm’s reasons for concluding that this method is adequately designed to mitigate risk of records being manipulated or falsified</td>
<td>Before using this method</td>
<td>Five years (from the date the firm ceases to use this method)</td>
</tr>
<tr>
<td>CASS 6.6.45 R</td>
<td>Frequency of the firm’s internal custody record checks, physical asset reconciliations and external custody reconciliations</td>
<td>Sufficient to show and explain decision taken under CASS 6.6.44 R when determining frequency</td>
<td>Immediate</td>
<td>(1) Subject to (2), indefinitely.</td>
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<td>(2) For any decision which is superseded by a subsequent decision, five years from the subsequent</td>
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<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
<td>When record must be made</td>
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<tr>
<td>CASS 6.6.46R (2)</td>
<td>Review of frequency if the firm's internal custody record checks, physical asset reconciliations and external custody reconciliations</td>
<td>Date of each review and the actions the firm took in reviewing the frequency at which it conducts the relevant process</td>
<td>Immediate</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.6.54R (2)(a)</td>
<td>Actions taken by the firm to resolve shortfall under this rule</td>
<td>Actions taken, description of shortfall, identity of affected client(s), applicable assets appropriated to cover the shortfall. Update when discrepancy resolved.</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.6.54R (2)(b)</td>
<td>Actions taken by the firm to resolve shortfall under this rule</td>
<td>Actions taken, description of shortfall, identity of affected client(s), amount of money appropriated to cover the shortfall. Update when discrepancy resolved.</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 6.6.7R)</td>
</tr>
<tr>
<td>CASS 6.7.6R</td>
<td>Any safe custody asset disposed of in accordance with CASS 6.7.2R</td>
<td>(i) The safe custody asset that was disposed of; (ii) the value of the consideration received for the safe custody asset disposed of; (iii) the name and contact details of the client to whom the safe custody asset was allocated, according to the firm's records at the time of making the record; and (iv) efforts applied by the firm to determine the client's correct contact details</td>
<td>At the time of the disposal</td>
<td>Indefinite</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
<td>When record must be made</td>
<td>Retention period</td>
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<tr>
<td>CASS 7.10.3R(3)</td>
<td>Record of election to comply with the client money chapter</td>
<td>Record of election to comply with the client money chapter, including the date from which the election is to be effective</td>
<td>Date of the election</td>
<td>5 years (from the date the firm ceases to use the election)</td>
</tr>
<tr>
<td>CASS 7.10.31 R</td>
<td>Record of election in relation to CASS 7.10.30R</td>
<td>Record of election in relation to CASS 7.10.30R</td>
<td>Date of election</td>
<td>Not specified (see default provision CASS 7.15.5R(3))</td>
</tr>
<tr>
<td>CASS 7.10.35 R</td>
<td>Trustee firm’s election to comply, or to cease to comply, with specific CASS 7 provisions</td>
<td>Relevant provisions, date of election and of any decision to cease to comply</td>
<td>When election made or decision taken to cease to comply</td>
<td>5 years after ceasing to use the election</td>
</tr>
<tr>
<td>CASS 7.10.38 R</td>
<td>Trustee firm’s election to comply, or to cease to comply, with specific CASS 7 provisions</td>
<td>Relevant provisions, date of election and of any decision to cease to comply</td>
<td>When election made or decision taken to cease to comply</td>
<td>5 years after ceasing to use the election</td>
</tr>
<tr>
<td>CASS 7.11.3R(3)</td>
<td>Written agreement regarding any arrangement relating to a TTCA</td>
<td>The agreement</td>
<td>When agreement made</td>
<td>From the date the agreement is entered into and until five years after the agreement is terminated</td>
</tr>
<tr>
<td>CASS 7.11.20R</td>
<td>Client’s agreement to firm’s use of exemption in CASS 7.11.14R</td>
<td>Client’s written agreement</td>
<td>At the time of client’s agreement</td>
<td>During the time the firm makes use or intends to make use of the exemption in CASS 7.11.14R in respect of that client’s monies</td>
</tr>
<tr>
<td>CASS 7.11.24R</td>
<td>Client’s agreement to firm’s use of the delivery versus payment exemption in CASS 7.11.21R</td>
<td>Client’s written agreement</td>
<td>At the time of client’s agreement</td>
<td>During the time the firm makes use, or intends to make use, of the exemption in CASS 7.11.21R in respect of that client’s monies</td>
</tr>
<tr>
<td>CASS 7.11.55 R</td>
<td>Client money paid to charity by the firm under CASS 6.7.4E(1)(a) or, if being relied on, for the purposes of CASS 6.2.10R(4).</td>
<td>Details of balances released, relevant documents</td>
<td>When balance released</td>
<td>Indefinite</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
<td>When record must be made</td>
<td>Retention period</td>
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<tr>
<td>CASS 7.11.50R(4)</td>
<td>Mentation and the firm’s attempts to contact the client concerned</td>
<td></td>
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</tr>
<tr>
<td>CASS 7.11.57R(4)</td>
<td>Client money paid to charity by the firm under this rule</td>
<td>Records of all balances released from client bank accounts, including the information in CASS 7.11.55R(1)(a) and CASS 7.11.55R(1)(b)</td>
<td>When balance released</td>
<td>Not specified (see default provision CASS 7.15.5R(3))</td>
</tr>
<tr>
<td>CASS 7.13.14BR</td>
<td>The firm’s written policy produced under CASS 7.13.14AR(1)(a) in respect of the firm’s use of client bank accounts under CASS 7.13.13R(3A)(b), and subsequent versions of it</td>
<td>(i) For each of the firm’s business lines, the maximum proportion of the client money held by the firm under CASS 7.13.3R(1) to (3) in respect of the business line that the firm considers would be appropriate to hold in such accounts; (ii) the firm’s rationale for reaching its conclusion(s) under (i); and (iii) the means by which the firm will comply with CASS 7.13.14AR(2)(a), having regard to CASS 7.13.14CE.</td>
<td>On the date it creates the version of the policy</td>
<td>Five years after the earlier of: (1) the date on which the version of the policy was superseded; and (2) the date on which the firm ceased to use client bank accounts under CASS 7.13.13R(3A)(b).</td>
</tr>
<tr>
<td>CASS 7.13.25R(1)</td>
<td>Appropriateness of a firm’s selection of a third party</td>
<td>Grounds upon which a firm satisfies itself as to the appropriateness of the firm’s selection of a third party to hold client money</td>
<td>Date of the selection</td>
<td>5 years (from the firm ceases to use the third party to hold client money)</td>
</tr>
<tr>
<td>CASS 7.13.32R(3)</td>
<td>Physical receipts</td>
<td>Physical receipt of money</td>
<td>When the firm receives client money in the form of cash, a cheque or other payable order</td>
<td>Not specified (see default provision CASS 7.15.5R(3))</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
<td>When record must be made</td>
<td>Retention period</td>
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<tr>
<td>CASS 7.13.33R(3)</td>
<td>Future dated cheque</td>
<td>Receipt of money</td>
<td>When the firm receives client money in the form of a cheque that is dated with a future date</td>
<td>Not specified (see default provision CASS 7.15.5R(3))</td>
</tr>
<tr>
<td>CASS 7.13.55R</td>
<td>Firm's adoption of the alternative approach</td>
<td>Reasons for concluding that the normal approach would lead to greater risk to client money, adopting the alternative approach would not result in undue risk to client money, the alternative approach is appropriate for use by the particular business line, and the firm has adequate systems and controls</td>
<td>Before adopting alternative approach</td>
<td>Five years after it ceases to use the alternative approach in connection with that business line</td>
</tr>
<tr>
<td>CASS 7.4.19A R to CASS 7.4.19C R</td>
<td></td>
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<td>[deleted]</td>
</tr>
<tr>
<td>CASS 7.15.2 R</td>
<td>Client money held for each client and the firm's own money</td>
<td>All that is necessary to enable the firm to distinguish client money held for one client from client money held for any other client, and from the firm's own money</td>
<td>Maintain up to date records</td>
<td>Five years (from the date the record was made)</td>
</tr>
<tr>
<td>CASS 7.15.3 R</td>
<td>Client money held for each client</td>
<td>Accurate records to ensure the correspondence between the records and accounts of the entitlement of each client for whom the firm holds client money with the records and accounts of the client money the firm holds in client bank accounts and client transaction accounts</td>
<td>Maintain up to date records</td>
<td>Five years (from the date the record was made)</td>
</tr>
<tr>
<td>Handbook reference</td>
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</tr>
<tr>
<td>CASS 7.15.5R(3)</td>
<td>Default record keeping provision for CASS 7</td>
<td>Refer to the rule concerned</td>
<td>Refer to the rule concerned</td>
<td>Five years from the later of: (1) the date it was created; and (2) if it has been modified since the date in (1), the date it was most recently modified</td>
</tr>
<tr>
<td>CASS 7.15.18R</td>
<td>Internal reconciliation of client money balances</td>
<td>The firm’s reasons for concluding that the method of internal client money reconciliation it proposes to use meets the criteria at CASS 7.15.18R(1)(a)</td>
<td>Before the firm uses a non-standard method of internal client money reconciliation or materially changes its method</td>
<td>Not specified (see default provision CASS 7.15.5R(3))</td>
</tr>
<tr>
<td>CASS 7.18.10R(1)</td>
<td>Acknowledgment letters</td>
<td>Countersigned acknowledgment letter</td>
<td>From date of receipt</td>
<td>5 years from closure of last account to which the acknowledgment letter relates</td>
</tr>
<tr>
<td>CASS 7.18.10R(2)</td>
<td>Acknowledgment letters</td>
<td>Copy of acknowledgment letter sent to authorised central counterparty under CASS 7.8.3R(1)</td>
<td>From date firm sends the letter</td>
<td>5 years from closure of last account to which the acknowledgment letter relates</td>
</tr>
<tr>
<td>CASS 7.18.11R</td>
<td>Acknowledgment letters</td>
<td>Any other documentation or evidence the firm believes necessary to demonstrate compliance with CASS 7.8</td>
<td>None specified</td>
<td>None specified (see default provision CASS 7.6.4 R)</td>
</tr>
<tr>
<td>CASS 7.10.7ER</td>
<td>The election made under CASS 7.10.7AR</td>
<td>The election including the date from which the election is to be effective and, if the firm cancels the election, the date from which the election is to cease to be effective</td>
<td>At the time of the election and, if the firm cancels the election, at the time it is cancelled</td>
<td>Five years after ceasing to use the election</td>
</tr>
<tr>
<td>CASS 7.11.9R (2)</td>
<td>Client’s communication to firm of wish to terminate TTCA</td>
<td>Client’s communication of wish to terminate TTCA</td>
<td>When communication made</td>
<td>Five years (from date of communication)</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
<td>When record must be made</td>
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<tr>
<td>CASS 7.11.9R (4)</td>
<td>Firm's response to client's wish to terminate TTCA</td>
<td>Firm's response to client's wish to terminate TTCA</td>
<td>When notification given</td>
<td>Five years (from date of notification)</td>
</tr>
<tr>
<td>CASS 7.11.20 R</td>
<td></td>
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<tr>
<td>CASS 7.11.24 R</td>
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<tr>
<td>CASS 7.13.25R (2)</td>
<td>Firm's periodic review into selection and appointment of third party under CASS 7.13.8 R.</td>
<td>Date of each review, actions the firm took in reviewing the selection and appointment of a third party under CASS 7.13.8 R, and the grounds upon which the firm continues to be satisfied of appropriateness of its selection of that third party to hold client money</td>
<td>Date of review</td>
<td>Five years (from date of review)</td>
</tr>
<tr>
<td>CASS 7.13.25R (3)</td>
<td>Firm's periodic review under CASS 7.13.22 R.</td>
<td>Fact of review, its considerations and conclusions</td>
<td>Date of review</td>
<td>Five years (from date of review)</td>
</tr>
<tr>
<td>CASS 7.13.36 R</td>
<td>Unallocated client money</td>
<td>Fact that the balance treated as unallocated client money</td>
<td>When firm is unable to immediately identify money as client money or its own money and it treats the balance as client money</td>
<td>Pending firm's allocation of the client money concerned to an individual client</td>
</tr>
<tr>
<td>CASS 7.13.50 R; CASS 7.13.51 R</td>
<td>Prudent segregation record</td>
<td>Details of money segregated under CASS 7.13.41 R required by these rules</td>
<td>Maintain up to date</td>
<td>Five years (after the firm ceases to retain money as client money under CASS 7.13.41 R)</td>
</tr>
<tr>
<td>CASS 7.13.66 R; CASS 7.13.67 R</td>
<td>Alternative approach mandatory prudent segregation record</td>
<td>Details of money segregated under CASS 7.13.65 R required by these rules</td>
<td>Maintain up to date</td>
<td>Five years (after the firm ceases to retain money as client money under CASS 7.13.65 R)</td>
</tr>
<tr>
<td>CASS 7.13.74 R; CASS 7.13.75 R</td>
<td>Clearing arrangement mandatory prudent segregation record</td>
<td>Details of money segregated under CASS 7.13.73R (3)(a) required by these rules</td>
<td>Maintain up to date</td>
<td>Five years (after the firm ceases to retain money as client money under CASS 7.13.73R (3)(a))</td>
</tr>
<tr>
<td>Handbook reference</td>
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</tr>
<tr>
<td>CASS 7.15.5R (1)</td>
<td>Total amount of client money the firm should be holding for each client</td>
<td>Total amount of client money the firm should be holding for each client</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 7.15.5R (3))</td>
</tr>
<tr>
<td>CASS 7.15.5R (2)</td>
<td>Transactions and commitments for client money</td>
<td>Sufficient to show and explain transactions and commitments</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 7.15.5R (3))</td>
</tr>
<tr>
<td>CASS 7.15.7 R</td>
<td>Internal client money reconciliations and external client money reconciliations conducted carried out by the firm</td>
<td>Date, actions the firm took in carrying out the relevant process, and the outcome of its calculation of its client money requirement and client money resource. Fact of each reconciliation and review of the firm's arrangements for complying with CASS 7.15.5 R to CASS 7.15.7 R</td>
<td>Immediate</td>
<td>Not specified (see default provision CASS 7.15.5R (3))</td>
</tr>
<tr>
<td>CASS 7.15.9 R</td>
<td>Receipts of client money</td>
<td>Appropriate to account for all receipts of client money in the form of cash, cheque or other payable order not yet deposited in a client bank account</td>
<td>Maintain up to date</td>
<td>Not specified (see default provision CASS 7.15.5R(3))</td>
</tr>
<tr>
<td>CASS 7.15.24 R</td>
<td>Frequency of the firm's external client money reconciliations</td>
<td>Sufficient to show and explain decision taken under CASS 7.15.23 R when determining frequency</td>
<td>Immediate</td>
<td>(1) Subject to (2), indefinitely. (2) For any decision which is superseded by a subsequent decision, five years from the subsequent decision (with (1) applying to the subsequent decision).</td>
</tr>
<tr>
<td>CASS 7.15.26 R (2)</td>
<td>Review of frequency of the firm's external client money reconciliations</td>
<td>Date of each review and the actions the firm took in reviewing the frequency at which it carries out the external</td>
<td>Not specified</td>
<td>Not specified (see default provision CASS 7.15.5R (3))</td>
</tr>
<tr>
<td>Handbook reference</td>
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<tr>
<td>CASS 7.19.6 R</td>
<td>For each sub-pool established by the firm</td>
<td>All the client beneficiaries of that sub-pool</td>
<td>From the date on which the sub-pool is created</td>
<td>Five years following the date on which client money was last held by the firm in relation to the sub-pool to which the record applied</td>
</tr>
</tbody>
</table>
| CASS 7.19.7 R      | For each sub-pool established by the firm | (a) The name of the sub-pool  
(b) The identity of the net margined omnibus account to which the sub-pool relates;  
(c) Each client bank account and each client transaction account maintained for the sub-pool;  
(d) the applicable sub-pool disclosure document for the sub-pool. | Prior to the date on which the firm intends to receive or hold client money for that sub-pool | Five years following the date on which client money was last held by the firm in relation to the sub-pool to which the record applied |
<p>| CASS 7.19.8 R      | For each sub-pool established by the firm | A list of all the sub-pools the firm has created. | From the date on which the sub-pool is created | Five years following the date on which client money was last held by the firm in relation to the sub-pool to which the record applied |
| CASS 7.19.9 R      | For each sub-pool established by the firm | A sub-pool disclosure document | At the time of establishing the relevant sub-pool | Five years following the date on which client money was last held by the firm in relation to the sub-pool to which the sub-pool disclosure document applied |
| CASS 7.19.13R (2)  | For each sub-pool established by the firm | The name of each client bank account and each client transaction account maintained for the | From the date on which the client bank account and client transaction account is | 5 years following the date on which client money was last held by the firm in relation to |</p>
<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 7A.2.6FR</td>
<td>Any balance under CASS 7A.2.6AR(1)(b)(i) or (ii) which has been applied towards any costs incurred in accordance with CASS 7.17.2R or towards any shortfall in the relevant notional pool in accordance with CASS 7A.2.6AR(1)(b) or (c) respectively</td>
<td>(i) The amount of the balance of client money; (ii) the name and contact details of any client to whom that balance was allocated according to the firm’s records at the time of making the record; and (iii) efforts applied by the firm to determine the client’s correct contact details under CASS 7A.2.6CE(1)(a) or, if being relied on, for the purposes of CASS 7.11.50R(3).</td>
<td>Immediately before taking steps to apply the balance towards costs or a shortfall in accordance with CASS 7A.2.6AR(1)(b) or (c) respectively</td>
<td>Indefinite</td>
</tr>
<tr>
<td>CASS 7A.3.8R (3)</td>
<td>Client money shortfall</td>
<td>Each client’s entitlement to client money shortfall at the failed bank</td>
<td>Maintain up to date records</td>
<td>Until client is repaid</td>
</tr>
<tr>
<td>CASS 7A.3.10R (3)</td>
<td>Client money shortfall</td>
<td>Each client’s entitlement to client money shortfall at the failed bank</td>
<td>Maintain up to date records</td>
<td>Until client is repaid</td>
</tr>
<tr>
<td>CASS 7A.3.11R (3)</td>
<td>Client money shortfall</td>
<td>Each client’s entitlement to client money shortfall at the failed bank</td>
<td>Maintain up to date records</td>
<td>Until client is repaid</td>
</tr>
<tr>
<td>CASS 7A.3.17R (3)</td>
<td>Client money shortfall</td>
<td>Each client’s entitlement to client money shortfall at the failed intermediate broker, settlement agent or OTC counterparty</td>
<td>Maintain up to date records</td>
<td>Until client is repaid</td>
</tr>
<tr>
<td>CASS 8.3.1 R</td>
<td>Adequate records and internal controls in respect of the firm’s use of mandates (see</td>
<td>Up to date list of firm’s mandates and any conditions regarding the use of mandates, all transac-</td>
<td>Maintain current full details</td>
<td>One year after the firm ceases to have the mandate or, if the mandate was held in the</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Subject of record</td>
<td>Contents of record</td>
<td>When record must be made</td>
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<tr>
<td>CASS 8.3.2 R to CASS 8.3.2C R</td>
<td>tions entered into, details of procedures and internal controls for giving and receiving of instructions under mandates, and important client documents held by the firm, and, in relation to non-written mandates, the further details required by CASS 8.3.2C R</td>
<td>course of or in connection with the firm’s MiFID business, five years after the same date</td>
<td></td>
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</tr>
<tr>
<td>CASS 10.1.3 R</td>
<td>A firm’s CASS resolution pack</td>
<td>The documents to which CASS 10.2 and CASS 10.3 refer</td>
<td>From the date on which a firm becomes subject to CASS 10.1.3 R</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 11.3.6 R</td>
<td>Allocation of CASS oversight function in CASS 11.3.1 R or CASS 11.3.2 R, or CASS operational oversight function in CASS 11.3.4 R</td>
<td>The person to whom (as applicable) the CASS oversight responsibilities have been allocated, or to whom the CASS operational oversight function has been allocated</td>
<td>Upon allocation</td>
<td>5 years (from the date the record was made)</td>
</tr>
<tr>
<td>CASS 11.7.6 R</td>
<td>Appropriateness of a CASS large debt management firm’s selection of an approved bank</td>
<td>Grounds upon which a CASS large debt management firm satisfies itself as to the appropriateness of the firm’s selection of an approved bank at which to hold client money</td>
<td>Date of the selection</td>
<td>5 years (from the date the firm ceases to use the approved bank to hold client money)</td>
</tr>
<tr>
<td>CASS 11.8.8 R</td>
<td>Client bank acknowledgement letters sent in accordance with CASS 11.8.2 R</td>
<td>Each countersigned client bank acknowledgement letters received</td>
<td>On receipt of each letter</td>
<td>5 years (following closure of the last client bank account to which the letter relates)</td>
</tr>
<tr>
<td>CASS 11.8.9 R</td>
<td>Demonstration that a CASS debt management firm has complied with CASS 11.8.2 R to CASS 11.8.7 R</td>
<td>Evidence of such compliance</td>
<td>On compliance with the relevant provision</td>
<td>None specified</td>
</tr>
<tr>
<td>Handbook reference</td>
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<tr>
<td>CASS 11.9.5 R</td>
<td>Money received from clients in the form of cash, cheques or other payable orders</td>
<td>Details of money received</td>
<td>On receipt</td>
<td>None specified</td>
</tr>
<tr>
<td>CASS 11.9.8 R (2)</td>
<td>Unidentified client money under CASS 11.9.8 R (2)</td>
<td>Details of unidentified client money held</td>
<td>Being unable to identify money as client money or its own money, and deciding it is reasonably prudent to so record</td>
<td>Until it performs the necessary steps to identify the money under CASS 11.9.8 R (1)</td>
</tr>
<tr>
<td>CASS 11.11.1 R</td>
<td>Client money held for each client and the CASS debt management firm’s own money</td>
<td>All that is necessary to enable the CASS debt management firm to distinguish client money held for one client from client money held for any other client, and from the firm’s own money</td>
<td>Maintain up-to-date records</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 11.11.3 R</td>
<td>Client money held for each client</td>
<td>Accurate records to ensure the correspondence between the records and accounts of the entitlement of each client for whom the CASS debt management firm holds client money with the records and accounts of the client money the firm holds in client bank accounts</td>
<td>Maintain up-to-date records</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 11.11.4 R</td>
<td>Payments made to, for or on behalf of clients by a CASS debt management firm and written and oral contact with clients and creditors</td>
<td>Details of payments made and of the written or oral contact</td>
<td>Maintain up-to-date records</td>
<td>None is specified</td>
</tr>
<tr>
<td>Handbook reference</td>
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<td>Contents of record</td>
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<tr>
<td>CASS 11.12.4 R</td>
<td>A CASS debt management firm's CASS 11 resolution pack</td>
<td>The documents to which CASS 11.12.3 R and CASS 11.12.4 R refer.</td>
<td>From the date on which a CASS debt management firm becomes subject to CASS 11.12.3 R</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 11.13.12 R (3)</td>
<td>A CASS large debt management firm's record of each client's shortfall in the event of a secondary pooling event</td>
<td>Details of the shortfall</td>
<td>On the secondary pooling event occurring</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 13.2.3R</td>
<td>Allocation of oversight function in CASS 13.2.3R</td>
<td>The person to whom the oversight function is allocated</td>
<td>Upon allocation</td>
<td>5 years (from the date the record was made)</td>
</tr>
<tr>
<td>CASS 13.5.8R</td>
<td>Client bank account acknowledgement letters sent in accordance with CASS 13.5.2R</td>
<td>Each counter-signed client bank account acknowledgement letter received</td>
<td>On receipt of each letter</td>
<td>5 years (following closure of the last client bank account to which the letter relates)</td>
</tr>
<tr>
<td>CASS 13.5.9R</td>
<td>Demonstration that the firm has complied with the requirements of CASS 13.5</td>
<td>Evidence of such compliance</td>
<td>On compliance with the relevant provision</td>
<td>None specified</td>
</tr>
<tr>
<td>CASS 13.6.5R</td>
<td>Money received from customers in the form of cash, cheques or other payable orders</td>
<td>Details of money received</td>
<td>On receipt</td>
<td>None specified</td>
</tr>
<tr>
<td>CASS 13.6.6R(2)</td>
<td>Unidentified client money under CASS 13.6.6R(2)</td>
<td>Details of unidentified client money held</td>
<td>Being unable to identify money as client money or its own money, and deciding it is reasonably prudent to so record</td>
<td>Until it performs the necessary steps to identify the money under CASS 13.6.6R(1)</td>
</tr>
<tr>
<td>CASS 13.10.1R(1)</td>
<td>Client money held for each customer and the firm's own money</td>
<td>All that is necessary to enable the firm to distinguish client money held for one customer from client money held for any other customer and from</td>
<td>Maintain up-to-date records</td>
<td>None specified</td>
</tr>
<tr>
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<tr>
<td>CASS 13.10.3R</td>
<td>Client money held for each customer</td>
<td>Accurate records to ensure the correspondence between the records and accounts of the entitlement of each customer for whom the firm holds client money with the records and accounts of the client money the firm holds in client bank accounts</td>
<td>Maintain up-to-date records</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 13.10.4R</td>
<td>Payments made to, for or on behalf of customers by the firm</td>
<td>Details of payments made</td>
<td>Maintain up-to-date records</td>
<td>None is specified</td>
</tr>
<tr>
<td>CASS 13.11.13R</td>
<td>A record of each customer’s shortfall in the event of a secondary pooling event</td>
<td>Details of the shortfall</td>
<td>On the secondary pooling event occurring</td>
<td>None is specified</td>
</tr>
</tbody>
</table>
## Client Assets

### Schedule 2

#### Notification requirements

<table>
<thead>
<tr>
<th>Sch 2.1 G</th>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>CASS 1A.2.5 R</td>
<td>Election to be treated as a CASS medium firm or a CASS large firm</td>
<td>The fact of that election</td>
<td>The fact of that election</td>
<td>To be made at least one week before the election is intended to take effect</td>
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<td>CASS 1A.2.8 R (1) - (3)</td>
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<td>CASS 1A.2.9 R (1) - (3)</td>
<td>The highest total amount of client money and the highest total value of safe custody assets held by a firm, as more fully described in CASS 1A.2.9 R</td>
<td>The highest total amount of client money and safe custody assets held by a firm, as more fully described in CASS 1A.2.9 R</td>
<td>The need to comply with CASS 1A.2.9 R (1) - (3)</td>
<td>By the fifteenth business day of January unless contrary provision is made in CASS 1A.2.9 R</td>
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<td>CASS 1A.2.9 R (4)</td>
<td>A firm’s ‘CASS firm type’ classification</td>
<td>A firm’s ‘CASS firm type’ classification</td>
<td>The need to comply with CASS 1A.2.9 R (4)</td>
<td>At the same time the firm makes the notification under CASS 1A.2.9 R (1), (2) or (3)</td>
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<td>CASS 5.5.61R</td>
<td>Failure of bank, broker or settlement agent</td>
<td>Full details including whether it intends to make good any <em>shortfall</em> that may have arisen in the amounts involved</td>
<td>As soon as the <em>firm</em> becomes aware</td>
<td>Immediately</td>
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<td>CASS 5.5.76R</td>
<td>Inability to perform the calculation required by CASS 5.5.63R(1)</td>
<td>Inability to perform the calculation</td>
<td>Inability to perform the calculation</td>
<td>Immediately</td>
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<td>CASS 5.5.77R</td>
<td>Inability to make good any <em>shortfall</em> identified by CASS 5.5.63R(1)</td>
<td>Inability to make good any <em>shortfall</em> in client money</td>
<td>Inability to make good any <em>shortfall</em></td>
<td>Immediately</td>
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<tr>
<td>CASS 6.6.57R(1)</td>
<td>Inability to comply with the requirements in CASS 6.6.2 R to CASS 6.6.4 R (Records, accounts and reconciliations)</td>
<td>The fact that the <em>firm</em> has not complied or is unable, in any material respect, to comply with the requirements and the reasons for that</td>
<td>Non-compliance or inability, in any material respect, to comply with the requirements</td>
<td>Without delay</td>
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<tr>
<td>CASS 6.6.57R (2)</td>
<td>Non-compliance or material inability to comply with the requirements in CASS 6.6.2 R (Records, accounts and reconciliations) and/or article 89(1)(b) or 89(1)(c) (Safekeeping duties with regard to assets held in custody) of the AIFMD level 2 regulation</td>
<td>The fact that the <em>firm</em> has not complied or is materially unable to comply with the requirements and the reasons for that</td>
<td>Non-compliance or material inability to comply with the requirement</td>
<td>Without delay</td>
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<tr>
<td>CASS 6.6.57R(2A)</td>
<td>Non-compliance or material inability to comply with the requirements in CASS 6.6.2R (Records, accounts and reconciliations) or article 13(1)(b) or 13(1)(c) (Safekeeping duties with regard to assets held in custody) of the AIFMD level 2 regulation</td>
<td>The fact that the <em>firm</em> has not complied or is materially unable to comply with the requirements and the reasons for that</td>
<td>Non-compliance or material inability to comply with the requirement</td>
<td>Without delay</td>
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<tr>
<td>Handbook reference</td>
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<td>CASS 6.6.57R (3)</td>
<td>Inability or material failure to take the steps required under CASS 6.6.54 R for the treatment of shortfalls.</td>
<td>The fact that the firm is unable or has materially failed to comply and the reasons for that</td>
<td>Inability or material failure to comply with the requirement</td>
<td>Without delay</td>
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<tr>
<td>CASS 6.6.57R (4)</td>
<td>Inability or material failure to conduct an internal custody record check under CASS 6.6.11 R to CASS 6.6.19 R</td>
<td>The fact that the firm is unable or has materially failed to comply and the reasons for that</td>
<td>Inability or material failure to comply with the requirement</td>
<td>Without delay</td>
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<tr>
<td>CASS 6.6.57R (5)</td>
<td>Inability or material failure to conduct a physical asset reconciliation in compliance with CASS 6.6.22 R to CASS 6.6.30 R</td>
<td>The fact that the firm is unable or has materially failed to comply and the reasons for that</td>
<td>Inability or material failure to comply with the requirement</td>
<td>Without delay</td>
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<tr>
<td>CASS 6.6.57R (6)</td>
<td>Inability or material failure to conduct an external custody record check in compliance with CASS 6.6.34 R to CASS 6.6.37 R</td>
<td>The fact that the firm is unable or has materially failed to comply and the reasons for that</td>
<td>Inability or material failure to comply with the requirement</td>
<td>Without delay</td>
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<tr>
<td>CASS 7.10.7AR(2)-(4)</td>
<td>The firm’s election under CASS 7.10.7AR(1), the effective date and any change to the effective date</td>
<td>The firm’s election under CASS 7.10.7AR(1)</td>
<td>Making the election or changing the effective date</td>
<td>For a notification under CASS 7.10.7AR(2), at least one month before the date on which the firm’s election is to be effective For a notification of a new effective date under CASS 7.10.7AR(4), the notification must be made before the new effective date.</td>
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<tr>
<td>CASS 7.10.7DR(1)</td>
<td>The cancellation of the firm’s election under CASS 7.10.7AR(1)</td>
<td>The cancellation of the firm’s election under CASS 7.10.7AR(1)</td>
<td>Cancelling the election</td>
<td>At least one month before the date on which the firm’s election is to cease to be effective</td>
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</table>
## Notification requirements

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASS 7.11.47 R</td>
<td>The firm’s intention to transfer client money under CASS 7.11.42R and/or CASS 7.11.44R</td>
<td>That intention</td>
<td>Forming the intention</td>
<td>Not less than seven days before the transfer of the client money in question</td>
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<tr>
<td>CASS 7.13.21CR(1)</td>
<td>Commencement of approach under CASS 7.13.21AR(1)</td>
<td>Notice that the firm will start to use the approach under CASS 7.13.21AR(1)</td>
<td>Whenever a decision to use the approach under CASS 7.13.21AR(1) is taken</td>
<td>Upon reaching the decision and before the firm starts to use that approach</td>
</tr>
<tr>
<td>CASS 7.13.21CR(2)</td>
<td>Cessation or continuation of approach under CASS 7.13.21AR(1)</td>
<td>Notice that the firm will cease to use the approach under CASS 7.13.21AR(1)</td>
<td>Whenever a decision to cease the approach under CASS 7.13.21AR(1) is taken</td>
<td>Upon reaching the decision</td>
</tr>
<tr>
<td>CASS 7.13.57 R</td>
<td>Firm’s intention to adopt the alternative approach for a particular business line</td>
<td>Firm’s intention to adopt the alternative approach for a particular business line</td>
<td>At least three months prior to adopting the alternative approach for that business line</td>
<td>At least three months prior to adopting the alternative approach for that business line</td>
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<td>CASS 7.15.18R(1)(b)</td>
<td>Firm’s intention to use a non-standard method of internal client money reconciliation</td>
<td>Firm’s intention to use a non-standard method of internal client money reconciliation</td>
<td>Forming the intention</td>
<td>Before using a non-standard method of internal client money reconciliation</td>
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<td>CASS 7.6.16R (2)</td>
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<td>CASS 7.15.33R (1)</td>
<td>Inability to comply with CASS 7.15.2 R, CASS 7.15.3 R or CASS 7.15.5R (1), due to materially out of date, inaccurate or invalid internal records and accounts</td>
<td>The fact that the firm is unable to comply and the reasons for that</td>
<td>Firm’s records and accounts are materially out of date, inaccurate or invalid internal so that it is unable to comply</td>
<td>Without delay</td>
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<tr>
<td>CASS 7.15.33R (2)</td>
<td>Inability to comply with CASS 7.15.29 R after having carried out an internal client money reconciliation</td>
<td>The fact that the firm is unable to comply and the reasons for that</td>
<td>Firm’s records and accounts are materially out of date, inaccurate or invalid internal so that it is unable to comply</td>
<td>Without delay</td>
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<tr>
<td>CASS 7.15.33R (3)</td>
<td>Inability or material failure to identify and correct any dis</td>
<td>The fact that the firm is unable to comply and the</td>
<td>Inability or material failure to comply</td>
<td>Without delay</td>
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<tr>
<td>Handbook reference</td>
<td>Matter to be notified</td>
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<td>crepencies under CASS 7.15.31 R to CASS 7.15.32 R after having carried out an external client money reconciliation</td>
<td>reasons for that</td>
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<td>CASS 7.15.33R (4)</td>
<td>Inability or material failure to conduct an internal client money reconciliation under CASS 7.15.12 R and CASS 7.15.15 R</td>
<td>The fact that the firm is unable to comply and the reasons for that</td>
<td>Inability or material failure to comply</td>
<td>Without delay</td>
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<td>CASS 7.15.33R (5)</td>
<td>Inability or material failure to conduct an external client money reconciliation under CASS 7.15.20 R to CASS 7.15.28 R</td>
<td>The fact that the firm is unable to comply and the reasons for that</td>
<td>Inability or material failure to comply</td>
<td>Without delay</td>
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<td>CASS 7.15.33R (6)</td>
<td>Amount of client money segregated in client bank accounts materially differing from client money segregation requirements during preceding 12 months</td>
<td>The fact of the material difference and the reasons for that</td>
<td>On becoming aware</td>
<td>Without delay</td>
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<td>CASS 7.19.21 R</td>
<td>Material change to sub-pool</td>
<td>Fact of proposed change, risks and consequences to beneficiaries</td>
<td>Firm determining that it wishes to make material change to a sub-pool</td>
<td>Not less than two months before the date on which the firm intends the change to take effect</td>
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<td>CASS 7.19.22 R</td>
<td>Establishment of a sub-pool of client money to FCA</td>
<td>Firm wishes to establish a sub-pool of client money</td>
<td>Firm determining that it wishes to establish a sub-pool of client money</td>
<td>Not less than two months before the date on which the firm intends to receive or hold client money for that sub-pool</td>
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<td>CASS 7.19.24 R</td>
<td>Non-compliance, or inability to comply with, with the requirements in</td>
<td>The fact that the firm has not complied with, or is unable to comply</td>
<td>Non-compliance with the applicable requirement</td>
<td>Without delay</td>
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<td>CASS 7.19.11 R or CASS 7.19.18 R</td>
<td>with, the requirements of CASS 7.19.11 R or CASS 7.19.18 R (as applicable)</td>
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<td>CASS 7A.3.19R (1)</td>
<td>Failure of a third party with which money is held – i.e.: bank, intermediate broker, settlement agent or OTC counterparty or other entity with which it has placed or to which it has passed client money</td>
<td>Full details</td>
<td>Firm becomes aware of the failure of the entity</td>
<td>As soon as the firm becomes aware</td>
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<td>CASS 7A.3.19R (2)</td>
<td>Failure of a third party with which money is held – i.e.: bank, intermediate broker, settlement agent or OTC counterparty or other entity with which it has placed or to which it has passed client money</td>
<td>Intentions regarding making good any shortfall that has arisen or may arise, and of the amounts involved</td>
<td>Failure of third party with which client money is held</td>
<td>As soon as reasonably practical</td>
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<td>CASS 10.1.16 R</td>
<td>If a firm has not complied with, or is unable to comply with, CASS 10.1.3 R</td>
<td>The fact of that firm’s non-compliance or inability to comply with the rule in CASS 10.1.3 R</td>
<td>Non-compliance or inability to comply with CASS 10.1.3 R</td>
<td>Immediately (as per CASS 10.1.16 R)</td>
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<td>CASS 11.2.4 R (1) to CASS 11.2.4 R (3)</td>
<td>The highest total amount of client money held in the previous year or projected to be held in the current year, as more fully described in CASS 11.2.4 R</td>
<td>The highest total amount of client money held in the previous year or projected to be held in the current year, as more fully described in CASS 11.2.4 R</td>
<td>The need to comply with CASS 11.2.4 R (1) to CASS 11.2.4 R (3)</td>
<td>By the fifteenth day of January unless contrary provision is made in CASS 11.2.4 R (1) to CASS 11.2.4 R (4)</td>
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<td>CASS 11.2.4 R (4)</td>
<td>A firm’s CASS debt management firm type classification</td>
<td>A firm’s CASS debt management firm type classification</td>
<td>The need to comply with CASS 11.2.4 R (4)</td>
<td>At the same time as the notification in CASS 11.2.4 R (1) to CASS 11.2.4 R (4)</td>
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<td>CASS 11.11.30 R (1)</td>
<td>Non-compliance with requirements in CASS 11.11.1 R to CASS 11.11.4 R</td>
<td>Non-compliance with requirements in CASS 11.11.1 R to CASS 11.11.4 R</td>
<td>The non-compliance</td>
<td>Without delay</td>
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<tr>
<td>CASS 11.11.30 R (2)</td>
<td>Amount of money segregated in <em>client bank accounts</em> is materially different from total aggregate of <em>client money</em> required to be segregated</td>
<td>The fact that there is a material difference</td>
<td>Awareness of the difference</td>
<td>Without delay</td>
</tr>
<tr>
<td>CASS 11.11.31 R</td>
<td>A <em>CASS large debt management firm’s</em> inability or failure to comply with CASS 11.11.23 R, CASS 11.11.28 R, CASS 11.11.13 R or CASS 11.11.25 R</td>
<td>The inability or failure to comply</td>
<td>Awareness of the inability or failure</td>
<td>Without delay</td>
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<tr>
<td>CASS 11.12.7 R</td>
<td>A <em>CASS large debt management firm’s</em> inability or failure to comply with CASS 11.12.2 R or CASS 11.12.6 R</td>
<td>The inability or failure to comply</td>
<td>Awareness of the inability or failure</td>
<td>Without delay</td>
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<tr>
<td>CASS 12.2.5 R</td>
<td><em>LME bond arrangements</em></td>
<td>Issue of an individual letter of credit issued by the <em>firm</em></td>
<td>Upon issue of an individual letter of credit under an <em>LME bond arrangement</em></td>
<td>Immediately</td>
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<tr>
<td>CASS 13.10.21R(1) to (5)</td>
<td>The <em>firm’s</em> inability or failure to comply with CASS 13.10.1R to 13.10.4R, CASS 13.10.5R, CASS 13.10.15R, CASS 13.10.17R, or CASS 13.10.19R.</td>
<td>The inability or failure to comply</td>
<td>Awareness of the inability or failure</td>
<td>Without delay</td>
</tr>
<tr>
<td>CASS 13.10.21R(6)</td>
<td>Amount of money segregated in <em>client bank accounts</em> is materially different from total aggregate of <em>client money</em> required to be segregated</td>
<td>The fact that there is a material difference</td>
<td>Awareness of the difference</td>
<td>Without delay</td>
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</table>
Client Assets

Schedule 3
Fees and other required payments

Sch 3.1 G

There are no requirements for fees or other payments in CASS.
Client Assets

Schedule 4
Powers exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
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### Client Assets

**Schedule 5**

**Rights of actions for damages**

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**Sch 5.1 G**

1. The table below sets out the *rules* in CASS contravention of which by an *authorised person* may be actionable under Section 138D of the Act (Actions for damages) by a *person* who suffers loss as a result of the contravention.

2. If a ‘Yes’ appears in the column headed ‘For private person?’, the *rule* may be actionable by a ‘private person’ under Section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A ‘Yes’ in the column headed ‘Removed’ indicates that the FCA has removed the right of action under Section 138D(3) of the Act. If so, a reference to the *rule* in which it is removed is also given.

3. The column headed ‘For other person?’ indicates whether the *rule* may be actionable by a *person* other than a ‘private person’ (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

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<table>
<thead>
<tr>
<th>Chapter / Appendix</th>
<th>Section / Annex</th>
<th>Paragraph</th>
<th>Right of action under Section 138D</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>For private person?</td>
</tr>
<tr>
<td>All <em>rules</em> in CASS with the status letter &quot;E&quot;</td>
<td></td>
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<td>No</td>
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<tr>
<td>All other <em>rule</em> in CASS</td>
<td></td>
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<td>Yes</td>
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Client Assets

Schedule 6
Rules that can be waived

Sch 6.1 G

As a result of section 138A of the Act (Modification or waiver of rules), the FCA has power to waive all its rules, other than rules made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the Act.
Schedule 6
Rules that can be waived