

# Chapter 1

## Application and general provisions



## 1.1 Application and purpose

### Application

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

### Purpose

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1.1.2 **G** 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 **G** The *rules* in ■ CASS 1.2 set out the maximum scope of this sourcebook. The application of CASS is modified for certain activities by 1■ CASS 1.4. Also particular chapters or sections of CASS may have provisions which limit their application.
- 1.2.2 **R** 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 **R** CASS does not apply to an *ICVC*.
- 1.2.4 **R** 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 **R** 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 G [deleted]

**Application for affiliates**

- 1.2.9A G
- (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 R [deleted]

- 1.2.11 R
- (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 G 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

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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 1.2.11R (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 **G** (1) 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*.

**Depositories**

- 1.4.6 **R** The *client money chapter* does not apply to a *depository* when acting as such.
- 1.4.6A **G** Firms acting as trustee or depository of an AIF are reminded of the obligations in ■ FUND 3.11 (Depositories) and Chapter IV (Depository) of the AIFMD level 2 regulation which apply in addition to those in CASS.
- 1.4.6B **G** *Firms acting as trustee or depository of a UK UCITS* are reminded of the obligations in ■ COLL 6.6B (UCITS depositories) and in the *UCITS level 2 regulation*, which apply in addition to those in CASS.
- 1.4.7 **R** Subject to ■ CASS 1.4.6 R, CASS applies to a *depository*, 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 **R** [deleted]
- 1.4.8A **R** (1) The application of CASS for a *trustee firm* acting as a *depository* 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 *depository* 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 **R** [deleted]

1.4.10 **R** [deleted]

1.4.11 **G** [deleted]

1.4.12 **G** [deleted]

1.4.13 **R** [deleted]

1.4.14 **R** [deleted]

**Debt management activities**

1.4.15 **G** (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 **G** ■ 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 **G** 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 **G** *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 **G** [deleted]

