

## Chapter 11

# Debt management client money chapter



### 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 16.12.29C R.

- 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 ■ SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities) nor ■ 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 ■ 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 ■ SYSC 27 (Senior managers and certification regime: Certification Regime).

### CASS large debt management firms

#### 11.3.3

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- (1) [deleted]
- (2) As a consequence of ■ 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 ■ 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 ■ 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 ■ CASS 11.3.4R applies to such *firms*.
- (4B) There are three elements of the regime for *SMCR firms* that are particularly relevant to ■ 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 ■ 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) Paragraphs (6) to (9) explain how ■ CASS 11.3.4R applies to an *SMCR firm* to which ■ SYSC 24 and ■ SYSC 26 apply.
- (6) The *SMCR 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.

- (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** **R** 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 16.12.29C R.

11.3.5 **R** [deleted]

11.3.5A **G** [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.