

## Chapter 13

# Claims management: client money



13.2      **Organisational requirements and  
responsibility for CASS operational  
oversight**

- 13.2.1

R

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

R

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

R

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

R

(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

G

(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.