

Temporary permissions regime – client assets rules

## Chapter 14

Temporary permissions  
regime – client assets rules

## 14.2 Temporary permission CASS firm classification

- 14
- 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** G 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** R 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** R (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** R CASS firm types

CASS firm type	Highest total amount of <i>client money</i> held during the <i>TP firm's</i> last calendar year or as the case may be that it projects that it will hold during the current calendar year	Highest total value of <i>safe custody assets</i> held by the <i>TP firm</i> during the <i>TP firm's</i> last calendar year or as the case may be that it projects that it will hold during the current calendar year
<i>CASS large TP firm</i>	more than £1 billion	more than £100 billion
<i>CASS medium TP firm</i>	an amount equal to or greater than £1 million and less than or equal to £1 billion	an amount equal to or greater than £10 million and less than or equal to £100 billion
<i>CASS small TP firm</i>	Less than £1 million	Less than £10 million

**14.2.9** R 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** R For the purpose of the annual notification to which R CASS 14.2.9R refers, a *TP firm* must apply the calculation rule in R CASS 14.2.6R.

- 14.2.11 **R** 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.
- 14.2.12 **R** 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.
- 14.2.13 **G** Any written notification made to the *FCA* under this chapter should be marked for the attention of: "Client Assets TP Firm Classification".