Chapter 8

Mandates
8.1 Application

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.

8.1.1 [deleted]

8.1.2 The mandate rules do not apply to a firm:

1. in relation to client money that the firm is holding in accordance with ■ CASS 5 or ■ CASS 7 (including client money that the firm has allowed another person to hold or control in accordance with ■ CASS 7.14.2R) or ■ 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 UCITS in accordance with ■ CASS 6; or
3. in relation to a client's assets that the firm is holding or has received under an arrangement to which ■ 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.

8.1.2A in relation to custody assets for which a small AIFM is:

1. carrying on those excluded custody activities that would amount to safeguarding and administration of assets (without arranging) but for the exclusion in article 72AA of the RAO; and
2. is doing so in accordance with ■ CASS 6; or
3. in relation to a client's assets that the firm is holding or has received under an arrangement to which ■ CASS 3 applies; or
4. acting as trustee or depositary of a UCITS in accordance with ■ CASS 6.

8.1.2B ■ 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 ■ 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 Firms are reminded that the mandate rules do not apply to an incoming EEA firm, other than an insurer, with respect to its passported activities. The application of the mandate rules is also dependent on the location from which the activity is undertaken (see CASS 1.3).

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]