

Chapter 8

Mandates

8.1 Application

- 8.1.1** **R** 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*.
- 8.1.2** **G** [deleted]
- 8.1.2A** **R** 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
 - (2A) in relation to *custody assets* for which a *small AIFM* is:
 - (a) 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
 - (b) 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) when it acts as the *operator* of a *regulated collective investment scheme* in relation to property held for or within the *scheme*.
- 8.1.2B** **G**
- (1) **■ 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 G *Firms* are reminded that the *mandate rules* do not apply to an *incoming EEA firm*, other than an *insurer*, with respect to its *passport 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 G The *mandate rules* require *firms* to establish and maintain records and *internal controls* to prevent the misuse of a *mandate*.

8.1.4A G 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 R [deleted]