

Chapter 8

Mandates



8.3 Records and internal controls

8.3.1 **R** A *firm* that has *mandates* must establish and maintain adequate records and *internal controls* in respect of its use of the *mandates*.

8.3.2 **R** The records and *internal controls* required by **■ CASS 8.3.1 R** must include:

- (1) an up-to-date list of each *mandate* that the *firm* has obtained, including a record of any conditions placed by the *client* or the *firm's* management on the use of the *mandate* and, where a *mandate* was received in non-written form in the course of, or in connection with, its *designated investment business*, the details required under **■ CASS 8.3.2C R**;
- (2) a record of each transaction entered into under each *mandate* that the *firm* has;
- (3) *internal controls* to ensure that each transaction entered into under each *mandate* that the *firm* has is carried out in accordance with any conditions placed by the *client* or the *firm's* management on the use of the *mandate*;
- (4) the details of the procedures and *internal controls* around the giving of instructions under the *mandates* that the *firm* has (such instructions being those referred to in **■ CASS 8.2.1 R (4)**); and
- (5) where the *firm* holds a passbook or similar documents belonging to the *client*, *internal controls* for the safeguarding (including against loss, unauthorised destruction, theft, fraud or misuse) of any passbook or similar document belonging to the *client* held by the *firm*.

A firm's list of mandates

8.3.2A **R**

- (1) A *firm's* up-to-date list of *mandates* under **■ CASS 8.3.2 R (1)** must be maintained in a medium that allows the storage of information in a way accessible for future reference by the *FCA* or by an auditor preparing a report under **■ SUP 3.10.4 R**.
- (2) It must be possible for any corrections or other amendments, and the contents of the list prior to such corrections and amendments, to be easily ascertained.

8.3.2B **G** A *firm* may use version control to comply with **■ CASS 8.3.2A R (2)**.

- 8.3.2C** **R** An entry in a *firm's* list of *mandates* under **■ CASS 8.3.2 R (1)** that relates to a *mandate* that was received in non-written form (eg in a telephone call) in the course of, or in connection with, its *designated investment business* must, as well as the information referred to at **■ CASS 8.3.2 R (1)**, include the following details:
- (1) the nature of the *mandate* (eg debit card details);
 - (2) the purpose of the *mandate* (eg collecting insurance premiums);
 - (3) how the *mandate* was obtained (eg by telephone);
 - (4) the name of the relevant *client*; and
 - (5) the date on which the *mandate* was obtained.
- 8.3.2D** **G** If a *firm* receives information through a telephone call in the course of, or in connection with, its *designated investment business* that amounts to a *mandate* as a result of the *firm* retaining a recording of the call (see **■ CASS 8.2.3 G**), the requirements at **■ CASS 8.3.2 R (1)** apply, regardless of whether or not the *firm* intends to use the *mandate* in the future. The *firm* will meet the requirements of **■ CASS 8.3.2 R (1)** if the *firm's* list of *mandates* is updated with the details of the *mandate* that the *firm* obtained as a result of the call.
- 8.3.2E** **G** A *firm* should not reproduce information meeting the conditions under **■ CASS 8.2.1 R** as a separate record (eg by including such information in its list of *mandates* under **■ CASS 8.3.2 R (1)**) unless the *firm* considers this necessary, as this creates additional risk of misuse. Making a record of the details concerning the *mandate* described in **■ CASS 8.3.2C R** would be appropriate.
- 8.3.2F** **G** When keeping its list of *mandates* under **■ CASS 8.3.2 R (1)** up to date:
- (1) a *firm* should create a new entry in the list each time the *firm* obtains a new *mandate*;
 - (2) if, for an existing entry on its list, a *firm* obtains the same information meeting the conditions in **■ CASS 8.2.1 R** again (eg in a written confirmation following a paperless direct debit), the additional *mandate* is not a new *mandate* and the *firm* should not create another entry on the list; but
 - (3) the *firm* should, for every entry on its list, identify each of the locations in which it has retained the information that meets the conditions in **■ CASS 8.2.1 R** (eg a *client's* debit card details retained in a telephone recording and also the *firm's* written log of the call, or two separate documents containing the same information).
- 8.3.2G** **R** **Retention of records**
 A *firm* must retain the records required under **■ CASS 8.3.1 R** in relation to a particular *mandate* for the following period after it ceases to have the *mandate* (e.g. because the *firm* has destroyed the relevant document, electronic record or telephone recording), as applicable:

- (1) subject to (2), a minimum of one year;
- (2) a minimum of five years, where the relevant *mandate* was held by the *firm* in the course of, or in connection with, its *MiFID business*.

8.3.2H G Where a *firm* has an obligation under ■ CASS 8.3.2G R to retain records after it ceases to have a particular *mandate*, it may keep the *mandate* on the *firm's* list under ■ CASS 8.3.2 R (1) for the relevant period, but the list should be updated to reflect the fact that it ceased to have the relevant *mandate* at the relevant date.

8.3.3 G A *firm* should distinguish between conditions placed by a *client* on the *firm's* use of a *mandate*, and criteria to which transactions effected by a *firm* with or for a *client* may be subject.

- (1) The requirements in ■ CASS 8.3.2 R (1) and ■ CASS 8.3.2 R (3) apply only in respect of conditions placed around the *firm's* use of a *mandate* itself or around the instructions described in ■ CASS 8.2.1 R (4). Examples of these include conditions under which a *mandate* may only be used by the *firm* in connection with transactions up to a certain value, or under which instructions under a *mandate* may only be given by certain personnel within the *firm*.
- (2) The requirements in ■ CASS 8.3.2 R (1) and ■ CASS 8.3.2 R (3) do not apply in respect of criteria which relate to the nature and circumstances of transactions effected by a *firm* with or for a *client*. Examples of those criteria include investment restrictions or exposure limits for a managed portfolio, and required or preferred execution prices or execution venues.