

**CLIENT ASSETS SOURCEBOOK (COMMON PLATFORM PROVISIONS)  
INSTRUMENT 2008**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
  - (2) section 139 (Miscellaneous ancillary matters);
  - (3) section 156 (General supplementary powers); and
  - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 January 2009.

**Amendments to the Handbook**

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Conduct of Business sourcebook (COBS)	Annex B
Client Assets sourcebook (CASS)	Annex C

**Notes**

- E. In this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

**Citation**

- F. This instrument may be cited as the Client Assets Sourcebook (Common Platform Provisions) Instrument 2008.

By order of the Board  
25 September 2008

## Annex A

### Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

<u>applicable asset</u>	(a)	<u>in relation to MiFID business, a financial instrument; or</u>
	(b)	<u>in relation to safeguarding and administering investments that is not MiFID business, a designated investment.</u>
client bank account	(1)	(other than in CASS 7 and <u>CASS 7A</u> and principally in <del>CASS 4</del> and CASS 5):
	(a)	an account at a bank which:
	(i)	holds the <i>money</i> of one or more <i>clients</i> ;
	(ii)	is in the name of the <i>firm</i> ;
	(iii)	includes in its title an appropriate description to distinguish the <i>money</i> in the account from the <i>firm's money</i> ; and
	(iv)	is a current or a deposit account; or
	(b)	a money market deposit of <i>client money</i> which is identified as being <i>client money</i> .
	(2)	(in CASS 7 <u>and CASS 7A</u> )
	(a)	an account at a bank which:
	(i)	holds the <i>money</i> of one or more <i>clients</i> ;
	(ii)	is in the name of the <i>firm</i> ; and
	(iii)	is a current or a deposit account; or
	(b)	a money market deposit account of <i>client money</i> which is identified as being <i>client money</i> .
client money	(1)	<del>(in CASS 2 and CASS 4, and, in so far as it relates to matters covered by CASS 2 or CASS 4, COBS) subject to the <i>client money rules</i>, <i>money</i> of any currency which, in the course of carrying on <i>designated investment business</i> that is not <i>MiFID business</i>, a <i>firm</i></del>

holds in respect of any *investment agreement* entered into, or to be entered into, with or for a *client*, or which a *firm* treats as *client money* in accordance with the *client money rules*. [deleted]

(2) (in CASS 5) subject to the *client money rules*, money of any currency which, in the course of carrying on *insurance mediation activity*, a *firm* holds on behalf of a *client* or which a *firm* treats as *client money* in accordance with the *client money rules*.

(2A) (in CASS 6, ~~and~~ CASS 7 and CASS 7A and, in so far as it relates to matters covered by CASS 6, ~~or~~ CASS 7, or COBS) subject to the *client money rules*, money of any currency:

(a) that a *firm* receives or holds for, or on behalf of, a *client* in the course of, or in connection with, its *MiFID business*; and/or

(b) which, in the course of carrying on *designated investment business* that is not *MiFID business*, a *firm* holds in respect of any *investment agreement* entered into, or to be entered into, with or for a *client*, or which a *firm* treats as *client money* in accordance with the *client money rules*.

(3) (in MIPRU):

(a) in relation to an *insurance intermediary* when acting as such, money which is *client money* in (2);

(b) in relation to a *home finance intermediary* when acting as such, money of any currency which in the course of carrying on *home finance mediation activity*, the *firm* holds on behalf of a *client*, either in a bank account or in the form of cash.

(4) (4) (in UPRU) *client money* for the purposes of the *client money rules*.

*client money*  
*chapter* CASS 7.

~~*client money*~~  
~~(*MiFID*~~  
~~*business*)~~  
~~*distribution*~~  
~~*rules*~~ CASS 7.9.

~~*Client client*~~  
~~*money*~~  
~~*distribution*~~ CASS 4.4 CASS 7A.



- (2) (in CASS 5) an event that occurs in the circumstances described in CASS 5.6.5R (Failure of the authorised firm: primary pooling event).
- (3) (in CASS 7 and CASS 7A) an event that occurs in the circumstances described in ~~CASS 7.9.4R~~ 7A.2.2R (Failure of the authorised firm: primary pooling event).

safe custody asset

- (a) in relation to MiFID business, a financial instrument; or
- (b) in relation to safeguarding and administering investments that is not MiFID business, a safe custody investment.

*secondary pooling event*

- (1) ~~(in CASS 4) an event that occurs in the circumstances described in CASS 4.4.14R (Failure of a bank, intermediate broker, settlement agent or OTC counterparty: secondary pooling events). [deleted]~~
- (2) (in CASS 5) an event that occurs in the circumstances described in CASS 5.6.14R (Failure of a bank, other broker or settlement agent: secondary pooling events).
- (3) (in CASS 7 and CASS 7A) an event that occurs in the circumstances described in ~~CASS 7.9.14R~~ 7A.3.1R (Failure of a bank, intermediate broker, settlement agent or OTC counterparty: secondary pooling events).

## Annex B

### Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 6.1.7 R (1) A firm that holds *designated investments* or *client money* for a *retail client* subject to the ~~*MiFID*~~ *custody chapter* or the ~~*MiFID*~~ *client money chapter* and ~~any third country investment firm~~ that holds ~~*designated investments*~~ or ~~*client money*~~ for a ~~*retail client*~~ must provide that *client* with the following information:

...

...

- 6.1.8 G Paragraphs (1), (3) and (4) of ~~COBS 6.1.7R~~ apply in relation to ~~*MiFID*~~ or ~~*equivalent third country business*~~ and also to ~~*firms*~~ that have elected to comply with the ~~*custody rules*~~ in the ~~*MiFID custody chapter*~~ or the ~~*client money rules*~~ in the ~~*MiFID client money chapter*~~. [deleted]

## Annex C

### Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

General application: what?

1.2.7 G ...

(3) The ~~non-directive custody chapter~~ and the ~~non-directive client money chapter~~ apply in relation to *regulated activities*, conducted by *firms*, which fall within the definition of ~~designated investment business other than MiFID business~~ and/or designated investment business.

...

(5) ~~The MiFID custody chapter and the MiFID client money chapter apply in relation to regulated activities, conducted by firms, which fall within the definition of:~~

(a) ~~MiFID business; and~~

(b) ~~designated investment business other than MiFID business, where the firm has, in accordance with those rules, opted to comply with the provisions of those rules with respect of this business. [deleted]~~

...

Application for retail clients, professional clients and eligible counterparties

1.2.8 G ...

(2) ~~In CASS, except in the insurance client money chapter, MiFID custody chapter and MiFID client money chapter, the term customer refers to retail clients and professional clients, but not eligible counterparties. Where relevant, each of the provisions of CASS makes clear whether it applies to activities carried on with or for retail clients or professional clients, or both. [deleted]~~

...

(4) Each provision in the *MiFID custody chapter* and the *MiFID client money chapter* makes it clear whether it applies to activities carried

on or for *retail clients, professional clients* or both. There is no further modification of the *rules* in these chapters in relation to activities carried on for *eligible counterparties*. Such *clients* are treated in the same way as other *professional clients* for the purposes of these *rules*.

...

#### Investments and money held under different regimes

1.2.10 R ~~Where a firm is subject to both the *non-directive custody chapter* and the *MiFID custody chapter*, it must ensure segregation between *designated investments* held under each chapter, including that *designated investments* held under different chapters with the same third party, are held in different, separately designated, accounts. [deleted]~~

1.2.11 R Where a firm is subject to ~~more than one of the *non-directive client money chapter*, and the *insurance client money chapter* and the *MiFID client money chapter*~~, it must ensure segregation between money held under each chapter, including that money held under different chapters is held, in different, separately designated, *client bank accounts* or *client transaction accounts*.

...

1.2.13 G ~~A firm may opt to hold under a single chapter *designated investments* that would otherwise be held under different chapters (see *CASS 6.1.17R*). A firm may also opt to hold under a single chapter *money* that would otherwise be held under different chapters (see *CASS 4.1.1AR*, *CASS 5.1.1R(3)* and *CASS 7.1.3R (4)*).~~

...

#### Stock lending activity with or for ~~customers~~ clients

1.4.2 G (1) The ~~*non-directive custody chapter* and the *non-directive client money chapter*~~ apply in respect of any *stock lending activity* that is ~~not *MiFID business*~~ undertaken with or for a *customer* *client* by a firm. ~~If the *stock lending activity* involves *MiFID business* or if the firm has opted to comply with the *MiFID custody chapter* or the *MiFID client money chapter* with respect to its non-*MiFID business*, then the *MiFID custody chapter* and the *MiFID client money chapter* apply.~~

(2) The *collateral rules* apply, where relevant, in respect of *stock lending activity*, ~~whether or not the activity amounts to *MiFID business*~~.



#### Corporate finance business

- 1.4.3 G (1) The ~~non-directive custody chapter~~ and the ~~non-directive client money chapter~~ apply in respect of *corporate finance business* that is ~~not MiFID business~~ undertaken by a firm. If the *corporate finance business* involves *MiFID business* or if the firm has opted to comply with the ~~MiFID custody chapter~~ or the ~~MiFID client money chapter~~ with respect to its ~~non-MiFID business~~, then the *MiFID custody chapter* and the *MiFID client money chapter* apply.
- (2) The *collateral rules* apply, where relevant, in respect of *corporate finance business*, ~~whether or not the activity amounts to MiFID business~~.

#### Oil market activity and energy market activity

- 1.4.4 G (1) The ~~non-directive custody chapter~~ and the ~~non-directive client money chapter~~ apply in respect of *oil market activity* and other *energy market activity* that is ~~not MiFID business~~ undertaken by a firm. If the ~~energy market activity (including oil market activity)~~ involves *MiFID business* or if the firm has opted to comply with the ~~MiFID custody chapter~~ or the ~~MiFID client money chapter~~ with respect to its ~~non-MiFID business~~, then the *MiFID custody chapter* and the *MiFID client money chapter* apply.
- (2) The *collateral rules* apply, where relevant, in respect of *energy market activity*, ~~whether or not the activity amounts to MiFID business~~.

...

#### Depositories

- 1.4.6 R The ~~non-directive client money chapter~~ and the ~~MiFID client money chapter~~ ~~do~~ does not apply to a *depository* when acting as such.

...

- 1.4.8 R (1) Other than the mandate rules, CASS does not apply to a *trustee firm* which is not a *depository*, or the trustee of a *personal pension scheme* or *stakeholder pension scheme*, unless MiFID applies to it, in which case the custody chapter and the client money chapter do apply except for the MiFID custody chapter, the MiFID client money chapter and the mandate rules.
- (2) In the *MiFID custody chapter*, the *MiFID client money chapter* and the *mandate rules*, ‘*client*’ means ‘*trustee*’, ‘*trust*’, ‘*trust instrument*’

or 'beneficiary', as appropriate.

...

CASS 2 is deleted in its entirety. The text of the deleted chapter is not shown.

...

CASS 4 is deleted in its entirety. The text of the deleted chapter is not shown.

...

## **6 Custody ~~:MiFID business rules~~**

### **6.1 Application**

6.1.1 R This chapter (the *custody rules*) applies to a firm:

(1) ~~a *MiFID investment firm*: [deleted]~~

(a) ~~when it holds *financial instruments* belonging to a *client* in the course of its *MiFID business*; or [deleted]~~

(b) ~~that opts to comply with the *custody rules* under this chapter in accordance with CASS 6.1.17R(1), (Opt in to the MiFID custody rules); and [deleted]~~

(1A) when it holds *financial instruments* belonging to a *client* in the course of its *MiFID business*; and/or

(1B) when it is *safeguarding and administering investments*, in the course of business that is not *MiFID business*.

(2) ~~a *third country investment firm* that opts to comply with the *custody rules* under this chapter in accordance with CASS 6.1.17R(2) (Opt in to the MiFID client money rules). [deleted]~~

6.1.1A G The *regulated activity of safeguarding and administering investments* covers both the *safeguarding and administration of assets (without arranging)* and *arranging the safeguarding and administration of assets*, when those assets are either *safe custody investments* or *custody assets*. A *safe custody investment* is, in summary, a *designated investment* which a *firm* receives or holds on behalf of a *client*. *Custody assets* include *designated investments*, and any other assets that the *firm* holds or may hold in the same portfolio as a *designated investment* held for or on behalf of the *client*.

6.1.1B R Firms to which the custody rules apply by virtue of CASS 6.1.1R(1B) must also apply the custody rules to those custody assets which are not safe custody investments in a manner appropriate to the nature and value of those custody assets.

6.1.1C G In accordance with article 42 of the Regulated Activities Order, a firm (“I”) will not be arranging safeguarding and administration of assets if it introduces a client to another firm whose permitted activities include the safeguarding and administration of investments, or to an exempt person acting as such, with a view to that other firm or exempt person:

(1) providing a safe custody service in the United Kingdom; or

(2) arranging for the provision of a safe custody service in the United Kingdom by another person;

and the other firm, exempt person or other person who is to provide the safe custody service is not in the same group as I, and does not remunerate I.

6.1.2 G Firms are reminded that dividends (actual or payments in lieu), stock lending fees and other payments received for the benefit of a client, and which are due to the clients, should be held in accordance with the ~~MiFID~~ client money chapter where appropriate.

6.1.3 G ~~This chapter does not apply where a firm issues depositary receipts. The custody rules in the non-directive custody chapter provide a specialist regime for the issue of depositary receipts (see CASS 2.1.24R to CASS 2.1.26R). [deleted]~~

...

6.1.5 G For example, this chapter does not apply where a firm borrows ~~financial instruments~~ safe custody assets from a client as principal under a stock lending agreement.

Title transfer collateral arrangements

6.1.6 R The custody rules do not apply where a client transfers full ownership of a ~~financial instrument~~ safe custody asset to a firm for the purpose of securing or otherwise covering present or future, actual, contingent or prospective obligations.

[Note: recital 27 to MiFID]

...

Affiliated companies – MiFID business

- 6.1.10 G The fact that a *client* is an *affiliated company* in respect of *MiFID business* does not affect the operation of the *custody rules* in relation to that *client*.

Affiliated companies – non-MiFID business

- 6.1.10A G In respect of business which is not *MiFID business*, the *custody rules* do not apply to a *firm* when it safeguards and administers a *designated investment* on behalf of an *affiliated company*, unless:

- (1) the *firm* has been notified that the *designated investment* belongs to a *client* of the *affiliated company*; or
- (2) the *affiliated company* is a *client* dealt with at arm's length.

- 6.1.11 G ~~A *firm* that holds *financial instruments* on behalf of an *affiliated company* in respect of its *non-MiFID business* and opts under CASS 6.1.17 R to comply with this chapter in respect of that *non-MiFID business*, should refer to CASS 2.1.9 R(1) to determine whether the assets falls within the scope of the *custody rules* in the *non-directive custody chapter* and therefore within the scope of the opt-in. [deleted]~~

Delivery versus payment transactions

- 6.1.12 R (1) A *firm* need not treat this chapter as applying in respect of a delivery versus payment transaction through a commercial settlement system if it is intended that the ~~*financial instrument*~~ *safe custody asset* is either to be:
- (a) ...
- (b) ...

unless the delivery or payment by the *firm* does not occur by the close of business on the third *business day* following the date of payment or delivery of the ~~*financial instrument*~~ *safe custody asset* by the *client*.

- (2) Until such a delivery versus payment transaction through a commercial settlement system settles, a *firm* may segregate *money* (in accordance with the ~~*MiFID client money chapter*~~) instead of the *client's financial instruments* *safe custody assets*.

~~Arranging registration and recommendations~~

- 6.1.13 G ~~This chapter does not apply where a *firm* arranges registration of a *financial instrument*. In such circumstances, a *firm* must comply with the relevant *custody rules* in the *non-directive custody chapter* (see CASS 2.1.22R).~~

[deleted]

- 6.1.14 G ~~This chapter does not apply where a firm recommends to a retail client a third party to hold the assets of that client. In such circumstances, a firm must comply with the relevant custody rules in the non-directive custody chapter (see CASS 2.2.19R). [deleted]~~

#### Temporary handling of financial instruments safe custody assets

- 6.1.15 G The *custody rules* do not apply if a firm temporarily handles a *financial instrument safe custody asset* belonging to a client. A firm should temporarily handle *financial instrument a safe custody asset* for no longer than is reasonably necessary. In most transactions this would be no longer than one *business day*, but it may be longer or shorter depending upon the transaction in question. For example, when a firm executes an order to sell shares which have not been registered on a de-materialised exchange, handling documents for longer periods may be reasonably necessary. However, in the case of *financial instruments safe custody assets* in bearer form, the firm is expected to handle them for less than one *business day*. When a firm temporarily handles *financial instruments safe custody assets*, it is still obliged to comply with *Principle 10* (Clients' assets).
- 6.1.16 G When a firm temporarily handles a *financial instrument safe custody asset*, in order to comply with its obligation to act in accordance with *Principle 10* (Clients' assets), the following are guides to good practice:
- (1) a firm should keep the *financial instrument safe custody asset* secure, record it as belonging to that client, and forward it to the client or in accordance with the client's instructions as soon as practicable after receiving it; and
  - (2) a firm should make and retain a record of the fact that the firm has handled that *financial instrument safe custody asset* and of the details of the client concerned and of any action the firm has taken.

#### Exemptions which do not apply to MiFID business

- 6.1.16A R The exemptions in CASS 6.1.16BR to 6.1.16DG do not apply to a MiFID investment firm which holds financial instruments belonging to a client in the course of MiFID business.

#### Operators of regulated collective investment schemes

- 6.1.16B R The custody rules do not apply to a firm when it acts as the operator of a regulated collective investment scheme, in relation to activities carried on for the purpose of, or in connection with, the operation of the scheme.

Personal investment firms

- 6.1.16C R The custody rules do not apply to a personal investment firm when it temporarily holds a designated investment, other than in bearer form, belonging to a client, if the firm:
- (1) keeps it secure, records it as belonging to that client, and forwards it to the client or in accordance with the client's instructions, as soon as practicable after receiving it;
  - (2) retains the designated investment for no longer than the firm has taken reasonable steps to determine is necessary to check for errors and to receive the final document in connection with any series of transactions to which the documents relate; and
  - (3) makes a record, which must then be retained for a period of 5 years after the record is made, of all the designated investments handled in accordance with (1) and (2) together with the details of the clients concerned and of any action the firm has taken.
- 6.1.16D G Administrative convenience alone should not lead a personal investment firm to rely on CASS 6.1.16CR. Personal investment firms should consider what is in the client's interest and not rely on CASS 6.1.16CR as a matter of course.

Trustees and depositaries

- 6.1.16E R The specialist regime in CASS 6.1.16FR to 6.1.16IG does not apply to a MiFID investment firm which holds financial instruments belonging to a client in the course of MiFID business.
- 6.1.16F R When a trustee firm or depositary acts as a custodian for a trust or collective investment scheme and:
- (1) the trust or scheme is established by written instrument; and
  - (2) the trustee firm or depositary has taken reasonable steps to determine that the relevant law and provisions of the trust instrument or scheme constitution will provide protections at least equivalent to the custody rules for the trust property or scheme property;

the trustee firm or depositary need comply only with the custody rules listed in the table below.

<u>Reference</u>	<u>Rule</u>
<u>CASS 6.1.1R to CASS 6.1.9G and</u>	<u>Application</u>

<u>CASS 6.1.15G to CASS 6.1.16C R</u>	
<u>CASS 6.1.16ER to CASS 6.1.16IG</u>	<u>Trustees and depositaries</u>
<u>CASS 6.1.22G to CASS 6.1.24G</u>	<u>General purpose</u>
<u>CASS 6.2.1R and CASS 6.2.2R</u>	<u>Protection of clients' safe custody assets</u>
<u>CASS 6.2.3R and CASS 6.2.6G</u>	<u>Registration and recording</u>
<u>CASS 6.2.7R</u>	<u>Holding</u>
<u>CASS 6.4.1R and CASS 6.4.2G</u>	<u>Use of safe custody assets</u>
<u>CASS 6.5</u>	<u>Records, accounts and reconciliations</u>

6.1.16G G The reasonable steps referred in CASS 6.1.16FR(2) could include obtaining an appropriate legal opinion to that effect.

6.1.16H R When a trustee firm or depositary within CASS 6.1.16FR arranges for, or delegates the provision of safe custody services by or to another person, the trustee firm or depositary must also comply with CASS 6.3.1R (Depositing and arranging assets to be deposited with third parties) in addition to the custody rules listed in the table in CASS 6.1.16FR.

6.1.16I G A trustee firm or depositary that just arranges safeguarding and administration of assets may also take advantage of the exemption in CASS 6.1.16JR (Arrangers).

#### Arrangers

6.1.16J R Only the custody rules in the table below apply to a firm when arranging safeguarding and administration of assets.

<u>Reference</u>	<u>Rule</u>
<u>CASS 6.1.1R to CASS 6.1.9G and CASS 6.1.15G to CASS 6.1.16BR</u>	<u>Application</u>
<u>CASS 6.1.16JR</u>	<u>Arrangers</u>
<u>CASS 6.1.22G to CASS 6.1.24G</u>	<u>General purpose</u>
<u>CASS 6.3.1R(1A) and CASS 6.3.2G</u>	<u>Arranging for assets to be deposited with third parties</u>

CASS 6.1.16KR	Records
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6.1.16K R When a firm arranges safeguarding and administration of assets, it must ensure that proper records of the custody assets which it arranges for another to hold or receive, on behalf of the client, are made and retained for a period of 5 years after they are made.

Opt in to the MiFID custody rules

6.1.17 R (1) ~~A firm that holds financial instruments to which this chapter applies and assets in respect of which the non-directive custody chapter applies, may elect to comply with the provisions of this chapter in respect of all assets so held and if it does so, this chapter applies as if all such assets were financial instruments that the firm receives and holds in the course of, or in connection with, its MiFID business.~~ [deleted]

(1A) ~~A third country investment firm that holds designated investments belonging to a client in the course of its equivalent business may elect to comply with the provisions of this chapter in respect of the assets it holds to which the non-directive custody chapter applies. If it does so, this chapter applies as if all such assets were assets that the firm receives and holds in the course of, or in connection with, MiFID business.~~ [deleted]

(2) ~~An election under this rule must be in respect of all the activities of the firm when it is safeguarding and administering investments belonging to a client with the exception of arranging safeguarding and administration of assets within the scope of CASS 2.1.21R and CASS 2.1.22R and depositary receipt business within the scope of CASS 2.1.24R to CASS 2.1.26R.~~ [deleted]

(3) ~~A firm must make and retain a written record of the election it makes under this rule, including the date from which the election is to be effective. The firm must make the record on the date it makes the election and must keep it for a period of five years after ceasing to use it.~~ [deleted]

6.1.18 G ~~A firm cannot rely upon this opt in in respect of arranging safeguarding and administration of assets and depositary receipt business as the custody rules in the non-directive custody chapter provide specialised regimes in respect of these types of business which are outside the scope of this chapter.~~ [deleted]

6.1.19 G ~~If a firm has opted to comply with this chapter, the non-directive custody chapter will have no application to the activities to which the election applies.~~ [deleted]



6.1.20 G ~~A firm (other than a third country investment firm) that is only subject to the non-directive custody chapter may not choose to comply with this chapter. [deleted]~~

6.1.20A G ~~The information requirements concerning the safeguarding of financial instruments belonging to a client (see COBS 6.1.7R) apply to a firm that has elected to comply with this chapter with respect of all assets to which the election applies. [deleted]~~

#### Disposal of financial instruments

6.1.21 R ~~The custody rules cease to have effect in relation to a financial instrument it has been disposed of in accordance with a valid client instruction. [deleted]~~

#### General purpose

6.1.22 G Principle 10 (Clients' assets) requires a firm to arrange adequate protection for clients' assets when it is responsible for them. As part of these protections, the custody rules require a firm to take appropriate steps to protect *financial instruments safe custody assets* for which it is responsible.

6.1.23 G The rules in this chapter are designed primarily to restrict the commingling of client and the firm's assets and minimise the risk of the client's *financial instruments safe custody assets* being used by the firm without the client's agreement or contrary to the client's wishes, or being treated as the firm's assets in the event of its insolvency.

6.1.24 G The custody rules also, where relevant, implement the provisions of MiFID which regulate the obligations of a firm when it holds *financial instruments* belonging to a client in the course of its MiFID business.

## 6.2 Holding of client assets

### Requirement to protect clients' ~~financial instruments~~ safe custody assets

6.2.1 R A firm must, when holding *financial instruments safe custody assets* belonging to clients, make adequate arrangements so as to safeguard clients' ownership rights, especially in the event of the firm's insolvency, and to prevent the use of *financial instruments safe custody assets* belonging to a client on the firm's own account except with the client's express consent.

[Note: article 13(7) of MiFID]

### Requirement to have adequate organisational arrangements

- 6.2.2 R A *firm* must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of *clients' financial instruments safe custody assets*, or the rights in connection with those *financial instruments safe custody assets*, as a result of the misuse of the *financial instruments safe custody assets*, fraud, poor administration, inadequate record-keeping or negligence.

[**Note:** article 16(1)(f) of the *MiFID implementing Directive*]

Registration and recording of legal title

- 6.2.3 R To the extent practicable, a *firm* must effect appropriate registration or recording of legal title to a *financial instrument safe custody asset* in the name of:

...

- (3) any other third party if:

(a) the *financial instrument safe custody asset* is subject to the law or market practice of a jurisdiction outside the *United Kingdom* and the *firm* has taken reasonable steps to determine that it is in the *client's* best interests to register or record it in that way, or that it is not feasible to do otherwise, because of the nature of the applicable law or market practice; and

(b) ...

- (4) the *firm* if:

(a) the *financial instrument safe custody asset* is subject to the law or market practice of a jurisdiction outside the *United Kingdom* and the *firm* has taken reasonable steps to determine that it is in the *client's* best interests to register or record it in that way, or that it is not feasible to do otherwise, because of the nature of the applicable law or market practice; and

(b) ...

...

- 6.2.5 R A *firm* may register or record legal title to its own *financial instrument applicable assets* in the same name as that in which legal title to a *financial instrument safe custody asset* is registered or recorded, but only if:

- (1) the *firm's financial instruments applicable assets* are separately identified in the *firm's* records from the *financial instruments safe*

custody assets; or

- (2) the *firm* registers or records a *financial instrument safe custody asset* in accordance with CASS 6.2.3R(4).

...

- 6.2.7 R A *firm* must ensure that any documents of title to *financial instruments applicable assets* in *bearer form*, belonging to the *firm* and which it holds in its physical possession, are kept separately from any document of title to a *client's financial instrument safe custody assets* in *bearer form*.

### 6.3 **Depositing assets and arranging for assets to be deposited with third parties**

- 6.3.1 R (1) A *firm* may deposit *financial instruments safe custody assets* held by it on behalf of its *clients* into an account or accounts opened with a third party, but only if it exercises all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those *financial instruments safe custody assets*.
- (1A) A *firm* which arranges the registration of a *safe custody investment* through a third party must exercise all due skill, care and diligence in the selection and appointment of the third party.
- (2) A *firm* must take the necessary steps to ensure that any *client's financial instruments safe custody assets* deposited with a third party, in accordance with this *rule*, are identifiable separately from the *financial instruments applicable assets* belonging to the *firm* and from the *financial instruments applicable assets* belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection.
- (3) When a *firm* makes the selection, appointment and conducts the periodic review referred to under this *rule*, it must take into account:
- (a) ...
  - (b) any legal requirements or market practices related to the holding of those *financial instruments safe custody assets* that could adversely affect *clients'* rights.
- (4) A *firm* must make a record of the grounds upon which it satisfies

itself as to the appropriateness of its selection of a third party as required in this *rule*. The *firm* must make the record on the date it makes the selection and must keep it from the date of such selection until five years after the *firm* ceases to use the third party to hold *financial instruments safe custody assets* belonging to *clients*.

[**Note:** articles 16(1)(d) and 17(1) of the *MiFID implementing Directive*]

6.3.2 G In discharging its obligations under this section, a *firm* should also consider, together with any other relevant matters:

(1) once a *financial instrument safe custody asset* has been lodged by the *firm* with the third party, the third party's performance of its services to the *firm*;

(2) the arrangements that the third party has in place for holding and safeguarding the *financial instrument safe custody asset*;

...

6.3.3 G A *firm* should consider carefully the terms of its agreements with third parties with which it will deposit *financial instruments safe custody assets* belonging to a *client*. The following terms are examples of the issues *firms* should address in this agreement:

(1) that the title of the account indicates that any *financial instrument safe custody asset* credited to it does not belong to the *firm*;

(2) that the third party will hold or record a *financial instrument safe custody asset* belonging to the *firm's client* separately from any *financial instrument applicable asset* belonging to the *firm* or to the third party;

(3) the arrangements for registration or recording of the *financial instrument safe custody asset* if this will not be registered in the *client's* name;

(4) the restrictions over the third party's right to claim a lien, right of retention or sale over any *financial instrument safe custody asset* standing to the credit of the account;

...

(8) the provisions detailing the extent of the third party's liability in the event of the loss of a *financial instrument safe custody asset* caused by the fraud, wilful default or negligence of the third party or an agent appointed by him.

- 6.3.4 R (1) A *firm* must only deposit *financial instruments safe custody assets* with a third party in a jurisdiction which specifically regulates and supervises the safekeeping of *financial instruments safe custody assets* for the account of another person with a third party who is subject to such regulation.
- (2) A *firm* must not deposit *financial instruments safe custody assets* held on behalf of a *client* with a third party in a country that is not an *EEA State* (third country) and which does not regulate the holding and safekeeping of *financial instruments safe custody assets* for the account of another person unless:
- (a) the nature of the *financial instruments safe custody assets* or of the *investment services* connected with those *financial instruments safe custody assets* requires them to be deposited with a third party in that third country; or
  - (b) the *financial instruments safe custody assets* are held on behalf of a *professional client* and the *client* requests the *firm* in writing to deposit them with a third party in that third country.
- (3) ~~In the case of activities a *firm* has opted into this chapter under CASS 6.1.17R(1) and (2) do not apply. However, the *firm* must deposit *financial instruments* belonging to *clients* pursuant to such activities with a *custodian* and must hold any document of title to a *financial instrument* either in the physical possession of the *firm* or: [deleted]~~
- ~~(a) for a *retail client*, with a *custodian*; [deleted]~~
  - ~~(b) for a *professional client*, with one or more of the following: [deleted]~~
    - ~~(i) a *custodian*; [deleted]~~
    - ~~(ii) any *person* whom the *firm* has taken reasonable steps to determine is a *person* whose business includes the provision of appropriate safe custody services; or [deleted]~~
    - ~~(iii) in accordance with the *professional client's* specific written instructions. [deleted]~~

[Note: article 17(2) and (3) of the *MiFID implementing Directive*]

## 6.4 Use of ~~financial instruments~~ safe custody assets

- 6.4.1 R (1) A *firm* must not enter into arrangements for *securities financing transactions* in respect of ~~financial instruments~~ safe custody assets held by it on behalf of a *client* or otherwise use such ~~financial instruments~~ safe custody assets for its own account or the account of another *client* of the *firm*, unless:
- (a) the *client* has given express prior consent to the use of the ~~financial instruments~~ safe custody assets on specified terms; and
  - (b) the use of that *client's* ~~financial instruments~~ safe custody assets is restricted to the specified terms to which the *client* consents.
- (2) A *firm* must not enter into arrangements for *securities financing transactions* in respect of ~~financial instruments~~ safe custody assets held by it on behalf of a *client* in an omnibus account held by a third party, or otherwise use ~~financial instruments~~ safe custody assets held in such an account for its own account or for the account of another *client* unless, in addition to the conditions set out in (1):
- (a) each *client* whose ~~financial instruments~~ safe custody assets are held together in an omnibus account has given express prior consent in accordance with (1)(a); or
  - (b) the *firm* has in place systems and controls which ensure that only ~~financial instruments~~ safe custody assets belonging to *clients* who have given express prior consent in accordance with the requirements of (1)(a) are used.
- (3) For the purposes of obtaining the express prior consent of a *retail client* under this *rule* the signature of the *retail client* or an equivalent alternative mechanism is required.
- (4) A *firm* which does not undertake *MiFID business* does not need to comply with (1), (2) and (3) until 1 May 2009.

[**Note:** article 19 of the *MiFID implementing Directive*]

- 6.4.2 G *Firms* are reminded of the *client's best interests rule*, which requires the *firm* to act honestly, fairly and professionally in accordance with the best interests of their *clients*. An example of what is generally considered to be such conduct, in the context of *stock lending activities* involving *retail clients* is:
- (1) ...

- (2) the current realisable value of the *financial instrument safe custody asset* and of the *relevant collateral* is monitored daily; and
- (3) the *firm* provides *relevant collateral* to make up the difference where the current realisable value of the collateral falls below that of the *financial instrument safe custody asset*, unless otherwise agreed in writing by the *client*.

6.4.3 R Where a *firm* uses *financial instruments safe custody assets* as permitted in this section, the records of the *firm* must include details of the *client* on whose instructions the use of the *financial instruments safe custody assets* has been effected, as well as the number of *financial instruments safe custody assets* used belonging to each *client* who has given consent, so as to enable the correct allocation of any loss.

[Note: article 19(2) of the *MiFID implementing Directive*]

## 6.5 Records, accounts and reconciliations

### Records and accounts

6.5.1 R A *firm* must keep such records and accounts as necessary to enable it at any time and without delay to distinguish *financial instruments safe custody assets* held for one *client* from *financial instruments safe custody assets* held for any other *client*, and from the *firm's* own *financial instruments applicable assets*.

[Note: article 16(1)(a) of the *MiFID implementing Directive*]

6.5.2 R A *firm* must maintain its records and accounts in a way that ensures their accuracy, and in particular their correspondence to the *financial instruments safe custody assets* held for *clients*.

[Note: article 16(1)(b) of the *MiFID implementing Directive*]

...

### Internal reconciliation of *financial instruments safe custody assets* held for clients

6.5.4 G (1) ~~SYSC 4.1.1R requires *firms* to have robust governance arrangements, such as internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems. In addition, SYSC 6.1.1R requires *firms* to establish, implement and maintain adequate policies and procedures sufficient to ensure the *firm's* compliance with its obligations under the *regulatory system*. Carrying out~~

internal reconciliations of the *financial instruments safe custody assets* held for each *client* with the *financial instruments safe custody assets* held by the *firm* and third parties is an important step in the discharge of the *firm's* obligations under CASS 6.5.2R, and where relevant, SYSC 4.1.1R and SYSC 6.1.1R.

...

- (3) Reconciliation methods which can be adopted for these purposes include the 'total count method', which requires that all *financial instruments safe custody assets* be counted and reconciled as at the same date.
- (4) If a *firm* chooses to use an alternative reconciliation method (for example the 'rolling stock method') it needs to ensure that:
  - (a) all of a particular *financial instrument safe custody asset* are counted and reconciled as at the same date; and
  - (b) all *financial instruments safe custody assets* are counted and reconciled during a period of six months.

...

#### Reconciliations with external records

- 6.5.6 R A *firm* must conduct on a regular basis, reconciliations between its internal accounts and records and those of any third parties by whom those *financial instruments safe custody assets* are held.

[**Note:** article 16(1)(c) of the *MiFID implementing Directive*]

- 6.5.7 G Where a *firm* deposits *financial instruments safe custody assets* belonging to a *client* with a third party, in complying with the requirements of CASS 6.5.6R, the *firm* should seek to ensure that the third party will deliver to the *firm* a statement as at a date or dates specified by the *firm* which details the description and amounts of all the *financial instruments safe custody assets* credited to the account, and that this statement is delivered in adequate time to allow the *firm* to carry out the periodic reconciliations required in CASS 6.5.6R.

#### Frequency of external reconciliations

- 6.5.8 G A *firm* should perform the reconciliation required by CASS 6.5.6R:
- (1) ...
  - (2) ...



to ensure the accuracy of its internal accounts and records against those of third parties by whom ~~financial instruments~~ safe custody assets are held.

#### Independence of person conducting reconciliations

- 6.5.9 G Whenever possible, a *firm* should ensure that reconciliations are carried out by a *person* (for example an *employee* of the *firm*) who is independent of the production or maintenance of the records to be reconciled (~~see SYSC 5.1.6R~~).

...

## 7 Client money : ~~MiFID~~ business rules

### 7.1 Application and Purpose

#### Application

- 7.1.1 R This chapter (the *client money rules*) applies to a *firm* that receives money from or holds money for, or on behalf of, a *client* in the course of, or in connection with:
- (1) ~~a *MiFID investment firm*: [deleted]~~
    - (a) ~~that holds *client money*; or [deleted]~~
    - (b) ~~that opts to comply with this chapter in accordance with CASS 7.1.3R(1) (Opt in to the MiFID client money rules); and [deleted]~~
  - (2) ~~a *third country investment firm* that opts to comply with this chapter in accordance with CASS 7.1.3R(2) (Opt in to the MiFID client money rules); [deleted]~~
  - (3) its *MiFID business*; and/or
  - (4) its *designated investment business*, that is not *MiFID business* in respect of any *investment agreement* entered into, or to be entered into, with or for a *client*;

unless otherwise specified in this section.

7.1.2 G ~~CASS 7.2 (Definition of client money) sets out the circumstances in which money is considered client money for the purposes of this chapter. [deleted]~~

Opt-in to the ~~MiFID~~ client money rules

7.1.3 R (1) A firm that receives or holds money to which this chapter applies in relation to:

(a) its MiFID business; or

(b) its MiFID business and its designated investment business which is not MiFID business;

~~and holds money in respect of which this chapter applies and money in respect of which the non-directive client money chapter or the insurance client money chapter~~ CASS 5 applies, may elect to comply with the provisions of this chapter in respect of all such money and if it does so, this chapter applies as if all such money were money that the firm receives and holds in the course of, or in connection with, its *MiFID business*.

(1A) ~~A third country investment firm that receives or holds money from, for or on behalf of a client in the course of, or in connection with, its equivalent business of a third country investment firm may elect to comply with the provisions of this chapter in respect of the money it holds to which the non-directive client money chapter or the insurance client money chapter applies. If it does so, this chapter applies as if all such money were money that the firm receives and holds in the course of, or in connection with, MiFID business. [deleted]~~

(1B) A firm that receives or holds money to which this chapter applies solely in relation to its designated investment business which is not MiFID business and receives or holds money in respect of which the insurance client money chapter applies, may elect to comply with the provisions of this chapter in respect of all such money and if it does so, this chapter applies as if all such money were money that the firm receives and holds in the course of or in connection with its designated investment business.

...

7.1.4 G The opt-in to the *client money rules* in this chapter does not apply in respect of money that a firm holds outside of the scope of ~~the non-directive client money chapter or the insurance client money chapter, such as money falling within the scope of the opt out for non-IMD designated investment business (see CASS 4.1.11R).~~

- 7.1.5 G If a *firm* has opted to comply with this chapter, ~~the *non-directive client money chapter* or the *insurance client money chapter*~~ will have no application to the activities to which the election applies.
- 7.1.6 G A *firm* ~~(other than a *third country investment firm*)~~ that is only subject to the ~~*non-directive client money chapter* or the *insurance client money chapter*~~ may not opt to comply with this chapter.
- 7.1.7 G ~~If a *firm* that has agreed with an *insurance undertaking* under the *client money rules* in the *insurance client money chapter* to treat the undertaking's money as *client money*, opts in to this chapter in accordance with this section, the *insurance undertaking's* interest under the trust (or in Scotland agency) will be subordinated to the interests of the *firm's* other *clients*.  
[deleted]~~
- 7.1.7A G ~~The information requirements concerning the safeguarding of *client money* (see *COBS 6.1.7R*) apply to a *firm* that has elected to comply with this chapter with respect of all *client money* to which the election applies.  
[deleted]~~

Professional client opt-out

- 7.1.7B R CASS 7.1.7CG to CASS 7.1.7IG do not apply to a *firm* in relation to money held in connection with its *MiFID business* to which this chapter applies or in relation to money for which the *firm* has made an election under CASS 7.1.3R(1).

Money that is not client money: 'opt outs' for any business other than *insurance mediation activity*

- 7.1.7C G The 'opt out' provisions provide a *firm* with the option of allowing a *professional client* to choose whether their money is subject to the *client money rules* (unless the *firm* is conducting *insurance mediation activity*).
- 7.1.7D R Subject to CASS 7.1.7FR, money is not *client money* when a *firm* (other than a *sole trader*) holds that money on behalf of, or receives it from, a *professional client*, other than in the course of *insurance mediation activity*, and the *firm* has obtained written acknowledgement from the *professional client* that:
- (1) money will not be subject to the protections conferred by the *client money rules*;
  - (2) as a consequence, this money will not be segregated from the money of the *firm* in accordance with the *client money rules* and will be used by the *firm* in the course of its own business; and

- (3) the professional client will rank only as a general creditor of the firm.

‘Opt-outs’ for non-IMD business

- 7.1.7E G For a firm whose business is not governed by the Insurance Mediation Directive, it is possible to ‘opt out’ on a one-way basis. However, in order to maintain a comparable regime to that applying to MiFID business, all ‘MiFID type’ business undertaken outside the scope of MiFID, should comply with the client money rules or be ‘opted out’ on a two-way basis.
- 7.1.7F R Money is not client money if a firm, in respect of designated investment business which is not an investment service or activity, an ancillary service, a listed activity or insurance mediation activity:
- (1) holds it on behalf of or receives it from a professional client who is not an authorised person; and
- (2) has sent a separate written notice to the professional client stating the matters set out in CASS 7.1.7DR(1) to (3).
- 7.1.7G G When a firm undertakes a range of business for a professional client and has separate agreements for each type of business undertaken, the firm may treat client money held on behalf of the client differently for different types of business; for example, a firm may, under CASS 7.1.7DR or CASS 7.1.7FR, elect to segregate client money in connection with securities transactions and not segregate (by complying with CASS 7.1.7DR or CASS 7.1.7FR) money in connection with contingent liability investments for the same client.
- 7.1.7H R When a firm transfers client money to another person, the firm must not enter into an agreement under CASS 7.1.7DR or CASS 7.1.7FR with that other person in relation to that client money or represent to that other person that the money is not client money.
- 7.1.7I G CASS 7.1.7HR prevents a firm, when passing client money to another person under CASS 7.5.2R (transfer of client money to a third party), from making use of the ‘opt out’ provisions under CASS 7.1.7DR or CASS 7.1.7FR.

...

**Credit institutions and approved banks**

...

- 7.1.11A R (1) This rule applies to a firm which is an approved bank but not a BCD credit institution.

(2) The client money rules do not apply to money held by the approved bank if it is undertaking business which is not MiFID business but only when the money is held in an account with itself, in which case the firm must notify the client in writing that:

(a) money held for that client in an account with the approved bank will be held by the firm as banker and not as trustee (or in Scotland as agent); and

(b) as a result, the money will not be held in accordance with the client money rules.

...

#### Affiliated companies – MiFID business

7.1.12 G A firm that holds money on behalf of, or receives money from, an affiliated company in respect of MiFID business must treat the affiliated company as any other client of the firm for the purposes of this chapter.

#### Affiliated companies – non-MiFID business

7.1.12A R A firm that holds money on behalf of, or receives money from, an affiliated company in respect of designated investment business which is not MiFID business must not treat the money as client money unless:

(1) the firm has been notified by the affiliated company that the money belongs to a client of the affiliated company; or

(2) the affiliated company is a client dealt with at arm's length; or

(3) the affiliated company is a manager of an occupational pension scheme or is an overseas company; and

(a) the money is given to the firm in order to carry on designated investment business for or on behalf of the clients of the affiliated company; and

(b) the firm has been notified by the affiliated company that the money is to be treated as client money.

7.1.13 G ~~A firm that holds client money on behalf of, or receives money from, an affiliated company in respect of its non MiFID business and opts under CASS 7.1.3R (1) to comply with this chapter in with respect of that non-MiFID business, should refer to the non-directive client money chapter (see CASS 4.1.18 R (Affiliated companies)) to determine whether that money falls within the scope of the non-directive client money chapter and~~

therefore within the scope of the opt-in. [deleted]

...

#### Solicitors

- 7.1.15 R (1) An *authorised professional firm* regulated by the Law Society (of England and Wales), the Law Society of Scotland or the Law Society of Northern Ireland must comply ~~with the *MiFID client money (minimum implementing) rules* and also~~ with the following rules of its *designated professional body* and, where relevant paragraph (3), and if it does so, it will be deemed to comply with the *client money rules* ~~in this chapter~~.
- (2) The relevant rules are:
- (a) if the *firm* is regulated by the Law Society (of England and Wales):
    - (i) the Solicitors' Accounts Rules 1998; or
    - (ii) where applicable, the Solicitors Overseas Practice Rules 1990;
  - (b) if the *firm* is regulated by the Law Society of Scotland, the Solicitors' (Scotland) Accounts, Accounts Certificate, Professional Practice and Guarantee Fund Rules 2001; and
  - (c) if the *firm* is regulated by the Law Society of Northern Ireland, the Solicitors' Accounts Regulations 1998.
- (3) If the *firm* in (1) is a *MiFID investment firm* that receives or holds *money* for, or on behalf of a *client* in the course of, or in connection with its *MiFID business*, it must also comply with the *MiFID client money (minimum implementing) rules* in relation to that business.

#### Long term insurers and friendly societies

- 7.1.15A R This chapter does not apply to the *permitted activities of a long-term insurer* or a *friendly society*, unless it is a *MiFID investment firm* that receives *money* from or holds *money* for or on behalf of a *client* in the course of, or in connection with, its *MiFID business*.

#### Contracts of insurance

- 7.1.15B R This chapter does not apply to *client money* held by a *firm* which:
- (1) receives or holds *client money* in relation to *contracts of insurance*;

but which

(2) in relation to such *client money* elects to act in accordance with the *insurance client money chapter*.

7.1.15C R A firm should make and retain a written record of any election which it makes under CASS 7.1.15BR.

Life assurance business

- 7.1.15D G (1) A firm which receives and holds *client money* in respect of life assurance business in the course of its *designated investment business* that is not *MiFID business* may:
- (a) under CASS 7.1.3R(1B) elect to comply with the *client money chapter* in respect of such *client money* and in doing so avoid the need to comply with the *insurance client money chapter* which would otherwise apply to the *firm* in respect of *client money* received in the course of its *insurance mediation activity*; or
  - (b) under CASS 7.1.15BR, elect to comply with the *insurance client money chapter* in respect of such *client money*.
- (2) These options are available to a *firm* irrespective of whether it also receives and holds *client money* in respect of other parts of its *designated investment business*. A *firm* may not however choose to comply with the *insurance client money chapter* in respect of *client money* which it receives and holds in the course of any part of its *designated investment business* which does not involve an *insurance mediation activity*.

Trustee firms (other than trustees of unit trust schemes)

7.1.15E R A trustee firm which holds *money* in relation to its *designated investment business* which is not *MiFID business* to which this chapter applies, must hold any such *client money* separate from its own *money* at all times.

7.1.15F R Only the *client money rules* listed in the table below apply to a *trustee firm* in connection with *money* that the firm receives, or holds for or on behalf of a client in the course of or in connection with its *designated investment business* which is not *MiFID business*.

<u>Reference</u>	<u>Rule</u>
<u>CASS 7.1.1R to CASS 7.1.6G, and CASS 7.1.8R to CASS 7.1.14R</u>	<u>Application</u>

<u>CASS 7.1.15ER and CASS 7.1.15FR</u>	<u>Trustee firms (other than trustees of unit trust schemes)</u>
<u>CASS 7.1.16G</u>	<u>General principle</u>
<u>CASS 7.7.2R to CASS 7.7.4G</u>	<u>Requirement</u>
<u>CASS 7.4.1R to CASS 7.4.6G</u>	<u>Depositing client money</u>
<u>CASS 7.4.7R to CASS 7.4.13G</u>	<u>A firm's selection of credit institution, bank or money market fund</u>
<u>CASS 7.6.6G to CASS 7.6.16R</u>	<u>Reconciliation of client money balances</u>

General purpose

7.1.16 G (1) ...

(2) The *client money rules* also where relevant implement the provisions of *MiFID* which regulate the obligations of a *firm* when it holds *client money* in the course of its *MiFID* business.

## 7.2 Definition of client money

7.2.1 R ~~For the purposes of this chapter and the *MiFID custody chapter*, *client money* means any *money* that a *firm* receives from or holds for, or on behalf of, a *client* in the course of, or in connection with, its *MiFID business* unless otherwise specified in this section. [deleted]~~

~~Business in the name of the firm~~

7.2.2 R ~~*Money* is not *client money* where the *firm* carries on business in its own name on behalf of the *client* where that is required by the very nature of the transaction and the *client* is in agreement. [deleted]~~

~~[Note: recital 26 to *MiFID*]~~

...

7.2.8A G The exclusion from the *client money rules* for delivery versus payment transactions under CASS 7.2.8R is an example of an exclusion from the *client money rules* which is permissible by virtue of recital 26 of *MiFID*.



- 7.2.8B     **R**     Money need not be treated as *client money* in respect of a delivery versus payment transaction, for the purpose of settling a transaction in relation to units in a regulated collective investment scheme, if:
- (1)     the *authorised fund manager* receives it from a *client* in relation to the *authorised fund manager's* obligation to issue *units*, in an *AUT* or to arrange for the issue of *units* in an *ICVC*, in accordance with *COLL*, unless the *price* of those *units* has not been determined by the close of business on the next *business day*:
- (a)     following the date of the receipt of the *money* from the *client*; or
- (b)     if the *money* was received by an *appointed representative* of the *authorised fund manager*, in accordance with *CASS 7.4.24G*, following the date of receipt at the specified business address of the *authorised fund manager*; or
- (2)     the *money* is held in the course of redeeming *units* where the proceeds of that redemption are paid to a *client* within the time specified in *COLL*; when an *authorised fund manager* draws a cheque or other payable order within these timeframes the provisions of *CASS 7.2.17R* and *CASS 7.2.9R(2)* will not apply.

...

#### Qualifying money market funds

- 7.4.3     **G**     Where a *firm* deposits *client money* with a *qualifying money market fund*, the units in that fund should be held in accordance with ~~the *MiFID custody chapter*~~ *CASS 6*.

[**Note:** recital 23 to the *MiFID implementing Directive*]

...

#### Payment of client money into a client bank account

- 7.4.14     **G**     Two approaches that a *firm* can adopt in discharging its obligations under the ~~*MiFID*~~ *client money segregation requirements* are:

(1)     ...

(2)     ...

...

- 7.4.18     **G**     Under the alternative approach, a *firm* that receives *client money* should:

(1)

(a) ...

(b) perform a reconciliation of records and accounts required under CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R and SYSC 6.1.1R, adjust the balance held in its *client bank accounts* and then segregate the *money* in the *client bank account* until the calculation is re-performed on the next *business day*; or

...

...

7.4.20 G Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* should ensure that any *money* other than *client money* deposited in a *client bank account* is promptly paid out of that account unless it is a minimum sum required to open the account, or to keep it open.

...

#### Automated transfers

7.4.22 G Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* operating the normal approach that receives *client money* in the form of an automated transfer should take reasonable steps to ensure that:

...

#### Mixed remittance

7.4.23 G Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* operating the normal approach that receives a *mixed remittance* (that is part *client money* and part other *money*) should:

...

#### Appointed representatives, tied agents, field representatives and other agents

7.4.24 G (1) Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* operating the normal approach should establish and maintain procedures to ensure that *client money* received by its *appointed representatives, tied agents, field representatives* or other agents is:

...

...

...

#### Client entitlements

- 7.4.27 G Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* operating the normal approach that receives outside the *United Kingdom* a *client* entitlement on behalf of a *client* should pay any part of it which is *client money*:

...

- 7.4.28 G Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* operating the normal approach should allocate a *client* entitlement that is *client money* to the individual *client* promptly and, in any case, no later than ten *business days* after notification of receipt.

#### Money due to a client from a firm

- 7.4.29 G Pursuant to the ~~MiFID~~ *client money segregation requirements*, a *firm* operating the normal approach that is liable to pay *money* to a *client* should promptly, and in any event no later than one *business day* after the *money* is due and payable, pay the *money*:

...

...

- 7.4.33 G A *firm* with a *Part 30 exemption order* undertakes to the *CFTC* that it will refuse to allow any US customer to opt not to have his *money* treated as *client money* if it is held or received in respect of transactions on non-US exchanges, unless that US customer is an “eligible contract participant” as defined in section 1a(12) of the Commodity Exchange Act, 7 U.S.C. In doing so, the *firm* is representing that if available to it, it will not make use of the opt-out arrangements in CASS 7.1.7BR to CASS 7.1.7FR in relation to that business. The ~~MiFID client money chapter does not have the option of allowing the *firm* or the *client* to choose whether *money* belonging to the *client* is subject to the *client money* rules.~~

...

#### Client entitlements

- 7.6.3 G Pursuant to CASS 7.6.2R, and where relevant SYSC 4.1.1R and SYSC 6.1.1R, a *firm* should take reasonable steps to ensure that is notified promptly of any receipt of *client money* in the form of a *client* entitlement.

...

Internal reconciliations of client money balances

- 7.6.6 G (1) ~~SYSC 4.1.1R requires firms to have robust governance arrangements, such as internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems. In addition, SYSC 6.1.1R requires firms to establish, implement and maintain adequate policies and procedures sufficient to ensure the firm's compliance with its obligations under the regulatory system.~~ Carrying out internal reconciliations of records and accounts of the entitlement of each *client* for whom the *firm* holds *client money* with the records and accounts of the *client money* the *firm* holds in *client bank accounts* and *client transaction accounts* should be one of the steps a *firm* takes to satisfy its obligations under CASS 7.6.2R, and where relevant SYSC 4.1.1R and SYSC 6.1.1R.

...

Records

- 7.6.7 R (1) A *firm* must makes records ... to show and explain that:
- (a) ...
- (b) in the event of a *primary pooling event* or a *secondary pooling event*, the method used is adequate to enable the *firm* to comply with the *client money (MiFID business) distribution rules*.

...

...

Requirement

- 7.7.2 R A *firm* receives and holds *client money* as trustee (or in Scotland as agent) on the following terms:
- (1) for the purposes of and on the terms of the *client money rules* and the *client money (MiFID business) distribution rules*;

...

- 7.7.3 R A trustee firm which is subject to the client money rules by virtue of CASS 7.1.1R(4):

- (1) must receive and hold client money in accordance with the relevant

instrument of trust;

(2) subject to that, receives and holds *client money on trust on the terms* (or in Scotland on the agency terms) specified in CASS 7.7.2R.

7.7.4     G     If a trustee firm holds *client money* in accordance with CASS 7.7.3R(2), the firm should follow the provisions in CASS 7.1.15ER and CASS 7.1.15FR.

...

Section 7.9 (Client money and distribution) is deleted in its entirety. The text of the deleted section is not shown.

7 Annex 1 Annex 1G

As explained in CASS 7.6.6G, in complying with its obligations under CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1G (General organisational requirements) and SYSC 6.1.1R (Compliance), a *firm* should carry out internal reconciliations of records and accounts of *client money* the *firm* holds in *client bank accounts* and *client transaction accounts*. This Annex sets out a method of reconciliation that the *FSA* believes is appropriate for these purposes (the *standard method of internal client money reconciliation*).

...

10. Segregation in the context of paragraph 9 can take many forms, including the holding of a *safe custody investment* in a nominee name and the safekeeping of certificates evidencing title in a fire resistant safe. It is not the intention that all the *custody rules* in the ~~*MiFID*~~ *custody chapter* should be applied to *designated investments* held in the course of settlement.

Insert the following new chapter after CASS 7. The text is not underlined.

**7A. Client money distribution**

**7A.1 Application and purpose**

Application

- 7A.1.1 R This chapter (the *client money distribution rules*) applies to a *firm* that holds *client money* which is subject to the *client money rules* when a *primary pooling event* or a *secondary pooling event* occurs.

Purpose

- 7A.1.2 G The *client money distribution rules* seek to facilitate the timely return of *client money* to a *client* in the event of the *failure* of a *firm* or third party at which the *firm* holds *client money*.

## 7A.2 Primary pooling events

Failure of the authorised firm: primary pooling event

- 7A.2.1 G (1) *A firm can hold client money in a general client bank account, a designated client bank account or a designated client fund account.*
- (2) *A firm holds all client money in general client bank accounts for its clients as part of a common pool of money so those particular clients do not have a claim against a specific sum in a specific account; they only have a claim to the client money in general.*
- (3) *A firm holds client money in designated client bank accounts or designated client fund accounts for those clients that requested their client money be part of a specific pool of money, so those particular clients do have a claim against a specific sum in a specific account; they do not have a claim to the client money in general unless a primary pooling event occurs. A primary pooling event triggers a notional pooling of all the client money, in every type of client money account, and the obligation to distribute it.*
- (4) *If the firm becomes insolvent, and there is (for whatever reason) a shortfall in money held for a client compared with that client's entitlements, the available funds will be distributed in accordance with the client money distribution rules.*
- 7A.2.2 R *A primary pooling event occurs:*
- (1) *on the failure of the firm;*
- (2) *on the vesting of assets in a trustee in accordance with an 'assets requirement' imposed under section 48(1)(b) of the Act;*
- (3) *on the coming into force of a requirement for all client money held by the firm; or*
- (4) *when the firm notifies, or is in breach of its duty to notify, the FSA, in accordance with CASS 7.6.16R (Notification requirements), that it is unable correctly to identify and allocate in its records all valid claims arising as a result of a secondary pooling event.*
- 7A.2.3 R *CASS 7A.2.2R(4) does not apply so long as:*
- (1) *the firm is taking steps, in consultation with the FSA, to establish those records; and*
- (2) *there are reasonable grounds to conclude that the records will be*

capable of rectification within a reasonable period.

#### Pooling and distribution

- 7A.2.4 R If a *primary pooling event* occurs:
- (1) *client money* held in each *client money* account of the *firm* is treated as pooled; and
  - (2) the *firm* must distribute that *client money* in accordance with CASS 7.7.2R, so that each *client* receives a sum which is rateable to the *client money* entitlement calculated in accordance with CASS 7A.2.5R.
- 7A.2.5 R (1) When, in respect of a *client*, there is a positive individual *client* balance and a negative *client equity balance*, the credit must be offset against the debit reducing the individual *client* balance for that *client*.
- (2) When, in respect of a *client*, there is a negative individual *client* balance and a positive *client equity balance*, the credit must be offset against the debit reducing *client equity balance* for that *client*.
- 7A.2.6 G A *client's* main claim is for the return of *client money* held in a *client bank account*. A *client* may be able to claim for any *shortfall* against *money* held in a *firm's* own account. For that claim, the *client* will be an unsecured creditor of the *firm*.

#### Client money received after the failure of the firm

- 7A.2.7 R *Client money* received by the *firm* after a *primary pooling event* must not be pooled with *client money* held in any *client money* account operated by the *firm* at the time of the *primary pooling event*. It must be placed in a *client bank account* that has been opened after that event and must be handled in accordance with the *client money rules*, and returned to the relevant *client* without delay, except to the extent that:
- (1) it is *client money* relating to a transaction that has not settled at the time of the *primary pooling event*; or
  - (2) it is *client money* relating to a *client*, for whom the *client money* entitlement, calculated in accordance with CASS 7A.2.5R, shows that *money* is due from the *client* to the *firm* at the time of the *primary pooling event*.
- 7A.2.8 G *Client money* received after the *primary pooling event* relating to an unsettled transaction should be used to settle that transaction. Examples of such transactions include:



- (1) an equity transaction with a trade date before the date of the *primary pooling event* and a settlement date after the date of the *primary pooling event*; or
  - (2) a *contingent liability investment* that is ‘open’ at the time of the *primary pooling event* and is due to settle after the *primary pooling event*.
- 7A.2.9 R If a *firm* receives a *mixed remittance* after a *primary pooling event*, it must:
- (1) pay the full sum into the separate *client bank account* opened in accordance with CASS 7A.2.7R; and
  - (2) pay the *money* that is not *client money* out of that *client bank account* into a *firm’s* own bank account within one *business day* of the *day* on which the *firm* would normally expect the remittance to be cleared.
- 7A.2.10 G Whenever possible the *firm* should seek to split a *mixed remittance* before the relevant accounts are credited.
- 7A.2.11 R If both a *primary pooling event* and a *secondary pooling event* occur, the provisions of this section relating to a *primary pooling event* apply.

### **7A.3 Secondary pooling events**

Failure of a bank, intermediate broker, settlement agent or OTC counterparty:  
secondary pooling events

- 7A.3.1 R A *secondary pooling event* occurs on the *failure* of a third party to which *client money* held by the *firm* has been transferred under CASS 7.4.1R(1) to CASS 7.4.1R(3) (Depositing client money) or CASS 7.5.2R (Transfer of client money to a third party).
- 7A.3.2 R CASS 7A.3.6R to CASS 7A.3.18R do not apply if, on the *failure* of the third party, the *firm* repays to its *clients* or pays into a *client bank account*, at an unaffected bank, an amount equal to the amount of *client money* which would have been held if a *shortfall* had not occurred at that third party.
- 7A.3.3 G When *client money* is transferred to a third party, a *firm* continues to owe fiduciary duties to the *client*. Whether a *firm* is liable for a *shortfall* in *client money* caused by a third party failure will depend on whether it has complied with its duty of care as agent or trustee.

Failure of a bank

- 7A.3.4 G When a bank *fails* and the *firm* decides not to make good the *shortfall* in the amount of *client money* held at that bank, a *secondary pooling event* will occur in accordance with CASS 7A.3.6R. The *firm* would be expected to reflect the *shortfall* that arises at the *failed* bank in its records of the entitlement of *clients* and of *money* held with third parties.
- 7A.3.5 G The *client money distribution rules* seek to ensure that *clients* who have previously specified that they are not willing to accept the risk of the bank that has *failed*, and who therefore requested that their *client money* be placed in a *designated client bank account* at a different bank, should not suffer the loss of the bank that has *failed*.

Failure of a bank: pooling

- 7A.3.6 R If a *secondary pooling event* occurs as a result of the *failure* of a bank where one or more *general client bank accounts* are held, then:
- (1) in relation to every *general client bank account* of the *firm*, the provisions of CASS 7A.3.8R, CASS 7A.3.13R and CASS 7A.3.14R will apply;
  - (2) in relation to every *designated client bank account* held by the *firm* with the *failed* bank, the provisions of CASS 7A.3.10R, CASS 7A.3.13R and CASS 7A.3.14R will apply;
  - (3) in relation to each *designated client fund account* held by the *firm* with the *failed* bank, the provisions of CASS 7A.3.11R, CASS 7A.3.13R and CASS 7A.3.14R will apply;
  - (4) any *money* held at a bank, other than the bank that has *failed*, in *designated client bank accounts*, is not pooled with any other *client money*; and
  - (5) any *money* held in a *designated client fund account*, no part of which is held by the bank that has *failed*, is not pooled with any other *client money*.
- 7A.3.7 R If a *secondary pooling event* occurs as a result of the *failure* of a bank where one or more *designated client bank accounts* or *designated client fund accounts* are held, then:
- (1) in relation to every *designated client bank account* held by the *firm* with the *failed* bank, the provisions of CASS 7A.3.10R, CASS 7A.3.13R and CASS 7A.3.14R will apply; and
  - (2) in relation to each *designated client fund account* held by the *firm* with the *failed* bank, the provisions of CASS 7A.3.11R, CASS

7A.3.13R and CASS 7A.3.14R will apply.

- 7A.3.8 R *Money held in each general client bank account and client transaction account of the firm must be treated as pooled and:*
- (1) any *shortfall* in *client money* held, or which should have been held, in *general client bank accounts* and *client transaction accounts*, that has arisen as a result of the *failure* of the bank, must be borne by all the *clients* whose *client money* is held in either a *general client bank account* or *client transaction account* of the *firm*, rateably in accordance with their entitlements;
  - (2) a new *client money* entitlement must be calculated for each *client* by the *firm*, to reflect the requirements in (1), and the *firm's* records must be amended to reflect the reduced *client money* entitlement;
  - (3) the *firm* must make and retain a record of each *client's* share of the *client money shortfall* at the *failed* bank until the *client* is repaid; and
  - (4) the *firm* must use the new *client money* entitlements, calculated in accordance with (2), for the purposes of reconciliations pursuant to CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R (General organisational requirements) and SYSC 6.1.1R (Compliance) .
- 7A.3.9 G The term “which should have been held” is a reference to the *failed* bank’s *failure* to hold the *client money* at the time of the pooling event.
- 7A.3.10 R For each *client* with a *designated client bank account* held at the *failed* bank:
- (1) any *shortfall* in *client money* held, or which should have been held, in *designated client bank accounts* that has arisen as a result of the *failure*, must be borne by all the *clients* whose *client money* is held in a *designated client bank account* of the *firm* at the *failed* bank, rateably in accordance with their entitlements;
  - (2) a new *client money* entitlement must be calculated for each of the relevant *clients* by the *firm*, and the *firm's* records must be amended to reflect the reduced *client money* entitlement;
  - (3) the *firm* must make and retain a record of each *client's* share of the *client money shortfall* at the *failed* bank until the *client* is repaid; and
  - (4) the *firm* must use the new *client money* entitlements, calculated in accordance with (2), for the purposes of reconciliations pursuant to CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R (General organisational requirements) and SYSC 6.1.1R

(Compliance).

- 7A.3.11 R *Money held in each designated client fund account with the failed bank must be treated as pooled with any other designated client fund accounts of the firm which contain part of the same designated fund and:*
- (1) any *shortfall* in *client money* held, or which should have been held, in *designated client fund accounts* that has arisen as a result of the *failure*, must be borne by each of the *clients* whose *client money* is held in that designated fund, rateably in accordance with their entitlements;
  - (2) a new *client money* entitlement must be calculated for each *client* by the *firm*, in accordance with (1), and the *firm's* records must be amended to reflect the reduced *client money* entitlement;
  - (3) the *firm* must make and retain a record of each *client's* share of the *client money shortfall* at the *failed* bank until the *client* is repaid; and
  - (4) the *firm* must use the new *client money* entitlements, calculated in accordance with (2), for the purposes of reconciliations pursuant to CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R (General organisational requirements) and SYSC 6.1.1R (Compliance).
- 7A.3.12 R *A client whose money was held, or which should have been held, in a designated client bank account with a bank that has failed is not entitled to claim in respect of that money against any other client bank account or client transaction account of the firm.*

Client money received after the failure of a bank

- 7A.3.13 R *Client money received by the firm after the failure of a bank, that would otherwise have been paid into a client bank account at that bank:*
- (1) must not be transferred to the *failed* bank unless specifically instructed by the *client* in order to settle an obligation of that *client* to the *failed* bank; and
  - (2) must be, subject to (1), placed in a separate *client bank account* that has been opened after the *secondary pooling event* and either:
    - (a) on the written instruction of the *client*, transferred to a bank other than the one that has *failed*; or
    - (b) returned to the *client* as soon as possible.
- 7A.3.14 R *If a firm receives a mixed remittance after the secondary pooling event*

which consists of *client money* that would have been paid into a *general client bank account*, a *designated client bank account* or a *designated client fund account* maintained at the bank that has *failed*, it must:

- (1) pay the full sum into a *client bank account* other than one operated at the bank that has *failed*; and
- (2) pay the *money* that is not *client money* out of that *client bank account* within one *business day* of the day on which the *firm* would normally expect the remittance to be cleared.

7A.3.15 G Whenever possible the *firm* should seek to split a *mixed remittance* before the relevant accounts are credited.

Failure of an intermediate broker, settlement agent or OTC counterparty: Pooling

7A.3.16 R If a *secondary pooling event* occurs as a result of the *failure* of an *intermediate broker*, *settlement agent* or *OTC counterparty*, then in relation to every *general client bank account* and *client transaction account* of the *firm*, the provisions of CASS 7A.3.17R and CASS 7A.3.18R will apply.

7A.3.17 R *Money* held in each *general client bank account* and *client transaction account* of the *firm* must be treated as pooled and:

- (1) any *shortfall* in *client money* held, or which should have been held, in *general client bank accounts* and *client transaction accounts*, that has arisen as a result of the *failure*, must be borne by all the *clients* whose *client money* is held in either a *general client bank account* or a *client transaction account* of the *firm*, rateably in accordance with their entitlements;
- (2) a new *client money* entitlement must be calculated for each *client* by the *firm*, to reflect the requirements of (1), and the *firm's* records must be amended to reflect the reduced *client money* entitlement;
- (3) the *firm* must make and retain a record of each *client's* share of the *client money shortfall* at the *failed intermediate broker*, *settlement agent* or *OTC counterparty* until the *client* is repaid; and
- (4) the *firm* must use the new *client money* entitlements, calculated in accordance with (2), for the purposes of reconciliations pursuant to CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R (General organisational requirements) and SYSC 6.1.1R (Compliance) .

Client money received after the failure of an intermediate broker, settlement agent or OTC counterparty

- 7A.3.18 R *Client money* received by the *firm* after the *failure* of an *intermediate broker, settlement agent* or *OTC* counterparty, that would otherwise have been paid into a *client transaction account* at that *intermediate broker, settlement agent* or *OTC* counterparty:
- (1) must not be transferred to the *failed* third party unless specifically instructed by the *client* in order to settle an obligation of that *client* to the *failed intermediate broker, settlement agent* or *OTC* counterparty; and
  - (2) must be, subject to (1), placed in a separate *client bank account* that has been opened after the *secondary pooling event* and either:
    - (a) on the written instruction of the *client*, transferred to a third party other than the one that has *failed*; or
    - (b) returned to the *client* as soon as possible.

Notification to the FSA: failure of a bank, intermediate broker, settlement agent or OTC counterparty

- 7A.3.19 R On the *failure* of a third party with which *money* is held, a *firm* must notify the *FSA*:
- (1) as soon as it becomes aware of the *failure* of any bank, *intermediate broker, settlement agent, OTC* counterparty or other entity with which it has placed, or to which it has passed, *client money*; and
  - (2) as soon as reasonably practical, whether it intends to make good any *shortfall* that has arisen or may arise and of the amounts involved.

...

Sch 1 Record keeping requirements

Sch 1.1 G The aim of the guidance in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

Sch 1.2 G It is not a complete statement of those requirements and should not be relied on as if it were.

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<del>€ASS</del>	<del>A personal</del>	<del>Client details and</del>		<del>3 years</del>

2.1.9R	investment firm that temporarily holds a client's designated investments	any actions taken by the firm		(from the making of the record) [deleted]
<del>CASS 2.3.6 R(1)(e)</del>	<del>Safe custody arrangements for clients ordinarily outside the United Kingdom</del>	<del>The steps taken and result under CASS 2.3.6 R(1)(e)</del>	<del>On determination that client does not wish to execute agreement</del>	<del>3 years</del> <del>[deleted]</del>
<del>CASS 2.6.15R</del>	<del>Client custody assets held or received by or on behalf of a client or which the firm has arranged for another to hold or receive</del>	<del>Full details</del>	<del>On receipt</del>	<del>3 years</del> <del>[deleted]</del>
<del>CASS 2.6.16R</del>	<del>Safe custody investments used for stock lending activities</del>	<del>The identity of safe custody investments available to be lent, and those which have been lent</del>	<del>On receipt</del>	<del>3 years</del> <del>[deleted]</del>
<del>CASS 4.3.11R</del>	<del>Client money</del>	<del>Sufficient records to show and explain firm's transactions and commitments</del>	<del>Maintain current full details</del>	<del>3 years (after records made)</del> <del>[deleted]</del>
<del>CASS 4.4.24R(3)</del>	<del>Client money shortfall</del>	<del>Each client's entitlement to client money shortfall at the failed bank</del>	<del>Maintain up to date records</del>	<del>Until client repaid</del> <del>[deleted]</del>
<del>CASS</del>	<del>Client money</del>	<del>Each client's entitlement to</del>	<del>Maintain up to date</del>	<del>Until client repaid</del>

4.4.25R(3)	shortfall	client money shortfall at the failed intermediate broker, settlement agent or OTC counterparty	records	[deleted]
<del>CASS 4.4.31R(3)</del>	Client money shortfall	Each client's entitlement to client money shortfall at the failed intermediate broker, settlement agent or OTC counterparty	Maintain up to date records	Until client repaid [deleted]
CASS 5.1.1R(4)	Record of election of compliance with <del>CASS 5.8 to CASS 5.8</del> provisions with specified CASS rules	Record of compliance with <del>CASS 5.8 to CASS 5.8</del> provisions on <i>client money</i> specified CASS rules	Not specified	Not specified
CASS 5.2.3R(2)	Holding <i>client money</i> as agent	The terms of the agreement	Not specified	Six years
CASS 5.4.4R(2)	Adequacy of systems and controls	Written confirmation of adequate systems and controls from its auditor	Not specified	Not specified
CASS 5.5.84R	<i>Client money</i> calculation	Whether the <i>firm</i> calculates its <i>client money</i> requirements according to CASS 5.5.84 R or CASS 5.5.84 R	Not specified	Not specified
CASS 5.5.84R	Transactions and commitments for <i>client</i>	Explanation of the <i>firm's</i> transactions and commitments for	Not specified	Three years



	<i>money</i>	<i>client money</i>		
CASS 5.8.3R(1)	Client's title to a <i>contract of insurance</i>	Identity of such <i>documents</i> and/or property and dates received and delivered to <i>client</i>	Not specified	Three years
<u>CASS 6.1.16CR(3)</u>	<u>A personal investment firm that temporarily holds a client's designated investments which is not in the course of MiFID business</u>	<u>Client details and any actions taken by the firm</u>		<u>5 years (from the making of the record)</u>
<u>CASS 6.1.16KR</u>	<u>Client custody assets which the firm has arranged for another to hold or receive</u>	<u>Full details</u>	<u>On receipt</u>	<u>5 years</u>
<u>CASS 6.1.17R</u>	<u>Record of election to comply with the MiFID custody chapter</u>	<u>Record of election to comply with the MiFID custody chapter, including the date from which the election is to be effective</u>	<u>Date of the election</u>	<u>5 years (from the date the firm ceases to use the election) [deleted]</u>
CASS 6.3.1R(4)	Appropriateness of a <i>MiFID investment firm's</i> selection of a third party	Grounds upon which a <i>MiFID investment firm</i> satisfies itself as to the appropriateness of the <i>firm's</i> selection of a third party to hold <i>financial</i>	Date of the selection	5 years (from the date the <i>firm</i> ceases to use the third party to hold <i>financial instrument s-safe</i> )

		<del>instruments</del> -safe <u>custody assets</u> belonging to <i>clients</i>		<u>custody</u> <u>assets</u> belonging to <i>clients</i> )
CASS 6.4.3R	Details of <i>clients</i> and <del>financial instruments</del> <u>safe custody assets</u> used for the <i>firm's</i> own account or the account of another <i>client</i> of the <i>firm</i>	Details of the <i>client</i> on whose instructions the use of the <del>financial instruments</del> <u>safe custody assets</u> has been effected and the number of <del>financial instruments</del> <u>safe custody assets</u> used belonging to each <i>client</i>	Maintain up to date records	5 years (from the date the record was made)
CASS 6.5.1R	<del>Financial instruments</del> <u>Safe custody assets</u> held for each <i>client</i> and the <i>firm's</i> own <del>financial instruments</del> <u>applicable assets</u>	All that is necessary to enable the <i>firm</i> to distinguish <del>financial instruments</del> <u>safe custody assets</u> held for one <i>client</i> from <del>financial instruments</del> <u>safe custody assets</u> held for any other <i>client</i> , and from the <i>firm's</i> own <del>financial instruments</del> <u>applicable assets</u>	Maintain up to date records	5 years (from the date the record was made)
CASS 6.5.2R	<del>Financial instruments</del> <u>Safe custody assets</u> held for <i>clients</i>	Accurate records <del>to which ensure the their</del> correspondence <del>between to the</del> <del>financial instruments</del> <u>safe custody assets</u> held for <u>clients</u> <del>each client and</del>	Maintain up to date records	5 years (from the date the record was made)

		<del>the financial instruments held by the firm and third parties</del>		
CASS 7.1.3R(32)	Record of election to comply with the <i>MiFID</i> client money chapter	Record of election to comply with the <i>MiFID</i> client money chapter, including the date from which the election is to be effective	Date of the election	5 years (from the date the firm ceases to use the election)
<u>CASS 7.1.15CR</u>	<u>Record of election in relation to CASS 7.1.15CR</u>	<u>Record of election in relation to CASS 7.1.15CR</u>	<u>Date of election</u>	<u>Not specified</u>
CASS 7.4.10R	Appropriateness of a <i>MiFID</i> investment firm's selection of a third party	Grounds upon which a <i>MiFID</i> investment firm satisfies itself as to the appropriateness of the firm's selection of a third party to hold client money	Date of the selection	5 years (from the firm ceases to use the third party to hold client money)
CASS 7.6.1R	Client money held for each client and the firm's own money	All that is necessary to enable the firm to distinguish client money held for one client from client money held for any other client, and from the firm's own money	Maintain up to date records	5 years (from the date the record was made)
CASS 7.6.2R	Client money held for each client	Accurate records to ensure the correspondence between the records and	Maintain up to date records	5 years (from the date the record was made)

		accounts of the entitlement of each <i>client</i> for whom the <i>firm</i> holds <i>client money</i> with the records and accounts of the <i>client money</i> the <i>firm</i> holds in <i>client bank accounts</i> and <i>client transaction accounts</i>		
CASS 7.6.7R	Internal reconciliation of <i>client money</i> balances	Explanation of method of internal reconciliation of <i>client money</i> balances used by the <i>firm</i> , and if different from the <i>standard method of internal client money reconciliation</i> , an explanation as to how the method used affords equivalent degree of protection to <i>clients</i> , and how it enables the <i>firm</i> to comply with the <i>client money (MiFID business) distribution rules</i>	Date the <i>firm</i> starts using the method	5 years (from the date the <i>firm</i> ceases to use the method)
CASS <del>7.9.21R(3)</del> 7A.3.8R(3)	<i>Client money shortfall</i>	Each <i>client's</i> entitlement to <i>client money shortfall</i> at the failed bank	Maintain up to date records	Until <i>client</i> is repaid
CASS <del>7.9.23R(3)</del> 7A.3.10R(3)	<i>Client money shortfall</i>	Each <i>client's</i> entitlement to <i>client money</i>	Maintain up to date records	Until <i>client</i> is repaid

		<i>shortfall</i> at the failed bank		
CASS <del>7.9.24R(3)</del> <u>7A.3.11R(3)</u>	<i>Client money shortfall</i>	Each <i>client's</i> entitlement to <i>client money shortfall</i> at the failed bank	Maintain up to date records	Until <i>client</i> is repaid
CASS <del>7.9.30R(3)</del> <u>7A.3.17R(3)</u>	<i>Client money shortfall</i>	Each <i>client's</i> entitlement to <i>client money shortfall</i> at the failed intermediate broker, <i>settlement agent</i> or OTC counterparty	Maintain up to date records	Until <i>client</i> is repaid
CASS 8.1.5R	Adequate records and internal controls in respect of the <i>firm's</i> use of mandates (see CASS 8.1.5R(1) to CASS 8.1.5R(4))	Up to date list of <i>firm's</i> authorities and any conditions regarding the use of authorities, all transactions entered into, details of procedures and authorities for giving and receiving of instructions under authorities, and important <i>client</i> documents held by the <i>firm</i>	Maintain current full details	Not specified

Sch 2 Notification requirements

Sch 2.1	G	Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
		<del>CASS 2.6.14R(1)</del>	<del>Non-compliance with reconciliation requirements in CASS 2.6.2R, CASS 2.6.4R, CASS</del>	<del>Reason for Non-compliance</del>	<del>Non-compliance</del>	<del>Immediately [deleted]</del>

	2.6.6R, CASS 2.6.8R, CASS 2.6.10R			
CASS 2.6.14R(2)	Non-compliance of reconciliation requirements in CASS 2.6.11 R	Reason for Non-compliance once reconciliation carried out	Non-compliance	Immediately [deleted]
CASS 4.3.64R	Failure of a third party with which money is held—ie: bank, intermediate broker, settlement agent or OTC counterparty or other entity with which it has placed or to which it has passed client money	Full details	When firm becomes aware of the failure of the entity	Immediately [deleted]
CASS 4.3.64R	Failure of a third party with which money is held—ie: bank, intermediate broker, settlement agent or OTC counterparty or other entity with which it has placed or to which it has passed client money	Intentions regarding making good any shortfall that has arisen or may arise, and of the amounts involved	Failure of third party with which money is held	As soon as reasonably practical [deleted]
CASS 4.3.87R	Daily calculation required by CASS 4.3.66R or CASS 4.3.6R	Inability to perform daily calculation	Inability to perform daily calculation	Immediately [deleted]
CASS 4.3.88R	Daily calculation required by CASS 4.3.66R or CASS 4.3.67R	Inability to make good any shortfall identified by daily calculation	Inability to make good any shortfall identified by close of business on the day of	Immediately [deleted]

			calculation	
<del>CASS 4.3.97R</del>	<del>Requirements detailed in CASS 4.3.89R, CASS 4.3.91R, CASS 4.3.92R, CASS 4.3.94R and CASS 4.3.95R.</del>	<del>Inability to comply with any of the requirements</del>	<del>Inability to comply with any of the requirements</del>	<del>As soon as possible [deleted]</del>
<del>CASS 4.3.110R</del>	<del>LME bond arrangements</del>	<del>Issue of an individual letter of credit issued by the firm</del>	<del>Upon issue of an individual letter of credit under an LME bond arrangement</del>	<del>Immediately [deleted]</del>
<del>CASS 4.4.33R (see CASS 4.3.64R)</del>	<del>Failure of a third party with which money is held – i.e. bank, intermediate broker, settlement agent or OTC counterparty or other entity with which it has placed or to which it has passed client money</del>	<del>Full details</del>	<del>When the firm becomes aware of the failure of the entity</del>	<del>Immediately [deleted]</del>
<del>CASS 4.4.33R (see CASS 4.3.64R)</del>	<del>Failure of a third party with which money is held – i.e. bank, intermediate broker, settlement agent or OTC counterparty</del>	<del>Intentions regarding making good any shortfall that has arisen or may arise, and of the amounts involved</del>	<del>Upon first delegation of regulated activity</del>	<del>As soon as reasonably practical [deleted]</del>
<del>CASS 5.5.84R</del>	<del>Failure of <i>bank, broker or settlement agent</i></del>	<del>Full details including whether it intends to make good any <i>shortfall</i> that may</del>	<del>As soon as the <i>firm</i> becomes aware</del>	<del>Immediately</del>

		have arisen in the amounts involved		
CASS 5.5.84R	Inability to perform the calculation required by CASS 5.5.84R	Inability to perform the calculation	Inability to perform the calculation	Immediately
CASS 5.5.84R	Inability to make good any <i>shortfall</i> identified by CASS 5.5.84R	Inability to make good any <i>shortfall</i> in <i>client money</i>	Inability to make good any <i>shortfall</i>	Immediately
CASS 5.5.84R	Inability to comply with the requirements in CASS 5.5.84R; CASS 5.5.84R; CASS 5.5.84R; CASS 5.5.84R	Inability to comply with the requirements of the <i>rules</i> listed	Inability to comply with the requirements of the <i>rules</i> listed	As soon as reasonably practicable
CASS 6.5.13R(1)	Non-compliance or inability, in any material respect, to comply with the requirements in CASS 6.5.1R (Records and accounts), CASS 6.5.2R (Records and accounts, including internal reconciliations) or CASS 6.5.6R (Reconciliations with external records)	The fact that the <i>firm</i> has not complied or is unable, in any material respect, to comply with the requirements and the reasons for that	Non-compliance or inability, in any material respect, to comply with the requirements	Without delay
CASS 6.5.13R(2)	Non-compliance or inability, in any material respect, to comply with the requirements in CASS 6.5.10R (Reconciliation	The fact that the <i>firm</i> has not complied or is unable, in any material respect, to	Non-compliance or inability, in any material respect, to comply with	Without delay



	discrepancies)	comply with the requirements and the reasons for that	the requirements	
<u>CASS 7.4.35R</u>	<u>LME bond arrangements</u>	<u>Issue of an individual letter of credit issued by the <i>firm</i></u>	<u>Upon issue of an individual letter of credit under an LME bond arrangement</u>	<u>Immediately</u>
CASS 7.6.16R(1)	Non-compliance or inability, in any material respect, to comply with the requirements in CASS 7.6.1R (Records and accounts), CASS 7.6.2R (Records and accounts, including internal reconciliations) or CASS 7.6.9R (Reconciliations with external records)	The fact that the <i>firm</i> has not complied or is unable, in any material respect, to comply with the requirements and the reasons for that	Non-compliance or inability, in any material respect, to comply with the requirements	Without delay
CASS 7.6.16R(2)	Non-compliance or inability, in any material respect, to comply with the requirements in CASS 7.6.13R to CASS 7.6.15R (Reconciliation discrepancies)	The fact that the <i>firm</i> has not complied or is unable, in any material respect, to comply with the requirements and the reasons for that	Non-compliance or inability, in any material respect, to comply with the requirements	Without delay
CASS	Failure of a third party with which	Full details	<i>Firm</i> becomes	As soon as the <i>firm</i>

<p><del>7.9.32R(1)</del>  <u>7A.3.19R(1)</u></p>	<p>money is held - i.e.: bank, <i>intermediate broker, settlement agent</i> or OTC counterparty or other entity with which it has placed or to which it has passed <i>client money</i></p>		<p>aware of the <i>failure</i> of the entity</p>	<p>becomes aware</p>
<p>CASS  <del>7.9.32R(2)</del>  <u>7A.3.19R(2)</u></p>	<p><i>Failure</i> of a third party with which money is held - i.e.: bank, <i>intermediate broker, settlement agent</i> or OTC counterparty or other entity with which it has placed or to which it has passed <i>client money</i></p>	<p>Intentions regarding making good any <i>shortfall</i> that has arisen or may arise, and of the amounts involved</p>	<p><i>Failure</i> of third party with which <i>client money</i> is held</p>	<p>As soon as reasonably practical</p>