Policy Statement

PS12/2

Financial Services Authority

Client assets sourcebook:

Custody liens

January 2012

Financial Services Authority

Contents

This Policy Statement reports on the main issues in relation to **custody liens** arising from Consultation Paper 11/15: *Client assets sourcebook: (1) Custody liens, (2) Title transfer collateral arrangements* (July 2011) and publishes final rules. Final rules in relation to title transfer collateral arrangements were published in Handbook Notice 113 (September 2011).

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Copies of this Policy Statement are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Abbreviations used in this paper

Abbreviation	Description
CASS	Client assets sourcebook
CP	Consultation Paper
LBIE	Lehman Brothers International (Europe)
PS	Policy Statement

1 Overview

Introduction

1.1 In Consultation Paper (CP) 11/15 – *Client assets sourcebook: (1) Custody liens, (2) Title transfer collateral arrangements* (published in July 2011), we consulted on making changes to our rules on inappropriate liens in custody agreements. These rules were originally made following Policy Statement (PS) 10/16 – *Client Assets Sourcebook (Enhancements) Instrument 2010* (published in October 2010). However, after these rules had come into force, industry feedback suggested that the rules on liens over omnibus accounts and assets held in overseas jurisdictions had unintended consequences. So we published CP11/15 in response.

1.2 To allow time for consultation on amending the rules, CP11/15 was divided into two parts. The first consulted on providing interim relief from the rules we wished to consult on, by extending and implementing transitional provisions to the end of March 2012 (published in Chapter 4 of Handbook Notice 113 in September 2011). The second part consulted on changes to the rules.

1.3 This Policy Statement summarises the feedback to the second part of CP11/15, gives our response to this feedback, and publishes final rules in relation to custody liens.

Background

1.4 Following the financial crisis and the collapse of Lehman Brothers International (Europe) (LBIE), we enhanced our client assets regime through proposals we consulted on in CP10/9 and implemented following PS10/16. One of the proposals included prohibiting firms from granting inappropriate general liens over their clients' assets and client money derived from those assets. This was our response to the observation that some firms in the UK had allowed custodians and sub-custodians to include inappropriate liens in their custodial agreements which could significantly delay or stop the return of client assets and associated client money if a firm failed. For example, some firms had entered into agreements that

granted their affiliates liens over the assets of clients they did not have any relationship with. We also observed that many clients were not aware of, or had an insufficient understanding of, the risks associated with this type of lien granted over their assets.

1.5 Most respondents supported our proposal in CP10/9 to prohibit inappropriate liens over custody assets. But there was a strong view, particularly among custodians and prime brokers, that the rules should provide for three legitimate exceptions of a lien or right granted over a client's assets or client money derived from those assets:

- in respect of properly incurred charges and liabilities relating to that client's assets or money;
- if required by a securities depository, securities settlement system or central counterparty to facilitate the settlement of that client's trades; and
- if required as a condition for accessing an overseas jurisdiction.

1.6 The rules made in PS10/16, which we intended to accommodate these exceptions, were introduced to apply to new agreements from 1 March 2011 and would have come into force for other agreements on 1 October 2011.

1.7 After PS10/16 was published, a number of firms and various trade associations representing custodians and brokers approached us. Although they agreed with the policy behind the rules, they said the form in which the rules were made would require them to change their current business models in which assets are generally held in omnibus accounts and liens are taken over the assets in those accounts, which we did not intend. We have also been told there are some issues with the rule on liens over assets in overseas jurisdictions.

1.8 As stated in CP11/15, we believe that using inappropriate liens is a threat to our consumer protection objective, considering the complexity of the agreements and the risk to client assets. Nevertheless, we agreed that our regulatory response to the market failure identified in CP10/9 could have unforeseen consequences.

1.9 We consulted on rule amendments to address these consequences in CP11/15. We also consulted on providing interim relief in the meantime by extending and implementing transitional provisions and reintroducing guidance requiring firms to consider liens when entering into custody agreements.

1.10 We implemented these transitional provisions in Handbook Notice 113[1] (see Chapter 2, paragraphs 2.29 to 2.32, and Chapter 4, paragraphs 4.56 to 4.76), allowing us to consult on the substantive changes to our rules.

Omnibus accounts

1.11 The main issue brought to our attention regarding the prohibition of liens in CASS 6.3.5R concerns the rule's application to omnibus accounts. As currently set out in CASS 6.3.6R,

1 www.fsa.gov.uk/pubs/handbook/hb_notice113.pdf

the rules permit firms to grant liens to a custodian but only over a specific client's assets (and associated client money) and only for custody fees and liabilities relating to services for that client. In practice, clients' assets are generally held by a firm in omnibus accounts with custodians. These accounts are opened as client accounts in the name of the firm – usually a broker, asset manager or other intermediary – rather than in individual accounts for each underlying client of the firm.

1.12 The current regime set out in CASS 6 allows firms to operate individual and omnibus accounts at custodians. In line with European developments, we will review the use of omnibus accounts and any risks arising in due course.

1.13 The problem is similar with omnibus accounts held at securities depositories, in securities settlement systems and at central counterparties as CASS 6.3.6R(2) allows liens if they are required by a securities depository, securities settlement system or central counterparty for facilitating the settlement of a particular client's trades. We are proposing to amend this rule to permit liens over an omnibus account held at these institutions for facilitating the settlement of trades relating to the assets held in that account.

Overseas jurisdictions

1.14 CASS 6.3.6R(3) permits liens over clients' assets and associated client money in jurisdictions outside the UK provided that: (a) the lien is required as a result of local law or as a necessary precondition for participation in that market; and (b) the firm has taken reasonable steps to determine that the lien is in the client's best interests.

1.15 We were told of two issues with the practical application of this rule:

- 'necessary precondition' may be too strict a requirement as firms have had different degrees of success in negotiating the removal of liens from agreements with custodians in overseas jurisdictions – where just one firm is able to remove a lien (due to market strength or otherwise) it casts doubt on whether other firms comply with this requirement; and
- taking 'reasonable steps' does not seem appropriate in circumstances in which certain clients have requested or where the firm is required to hold assets in that jurisdiction.

1.16 In light of this feedback, we proposed amending the existing 'necessary precondition' requirement in CASS 6.3.6R(3) to allow a firm to grant liens over clients' assets when this action is necessary for *that firm* to gain access to a local market.

1.17 We are making this proposal to incorporate a degree of flexibility in the application of this rule and to reflect the fact that firms may have unequal bargaining power when negotiating terms with custodians or sub-custodians. We recognise that what might be a necessary action for one firm in an overseas jurisdiction may not always be necessary for another operating in the same jurisdiction.

Cost benefit analysis

1.18 We received few comments on the cost benefit analysis; we received one comment regarding the first part of CP11/15 (on interim relief), and our response remains unchanged from that published in Handbook Notice 113 in this respect. So the cost benefit analysis remains unchanged from the analysis we consulted on in CP11/15.

Who should read this Policy Statement?

1.19 This PS will be of particular interest to firms that place custody assets with third-party custodians.

Next steps

1.20 We have taken into account feedback requesting that we consider appropriate transitional provisions. We have taken into account the time that may be needed to renegotiate agreements and have considered transitional provisions.

1.21 The instrument published with this PS comes into force on 1 April 2012. This means that any custody agreements which these rules apply to entered into by firms on or after 1 April 2012 must comply with these rules. The transitional provisions mean that firms will have until 30 September 2012 to ensure that any custody agreements entered into before 1 April 2012 comply with these rules. However, firms should modify these custody agreements if necessary to ensure that the agreements comply with the rules as soon as they are able and not wait until 30 September 2012, as indicated in the transitional provisions.

1.22 One of the important aims of the rules published in this PS, as stated in CP11/15 and Handbook Notice 113, was to prevent firms from inadvertently being in breach of our rules when granting liens over assets held in omnibus accounts at custodians. We have not at this time taken a position either for or against the use of omnibus accounts, but we may in future investigate their use and any risks posed by holding custody assets in this way.

CONSUMERS

The proposals in this paper are of most relevance to regulated firms. Although the paper is not of immediate interest to consumers, the rules are intended to improve the protection of clients' assets and to reduce situations in which clients face uncertainty or delay in the return of their safe custody assets on the insolvency of a firm.

2

Custody liens

2.1 In this chapter, we summarise the feedback we received to CP11/15 and our response to this feedback.

Omnibus accounts

2.2 We proposed amending CASS 6.3.6R to permit liens over omnibus client accounts covering properly incurred charges and liabilities arising from the provision of custody services in respect of the assets held within an omnibus client account.

2.3 In CP11/15 we asked:

> ***Q2:*** *Do you agree with our proposal to permit a lien or right over an omnibus client account where it is confined to properly incurred charges and liabilities arising from the provision of custody services in respect of the assets held within that account?*

2.4 One respondent noted that a sub-custodian could operate several omnibus accounts for its client for various reasons, such as administrative, reporting or tax, or for different asset types. This respondent disagreed with the wording of the rule and felt that it would be more reasonable to allow a firm to grant a lien covering all omnibus accounts it holds at a sub-custodian, and furthermore to define the terms 'segregated account' and 'omnibus account'. This respondent also asked for clarification that 'custody services' could include a range of activities including settlement and other services. They also questioned the inclusion of rules relating to client money under CASS 6 (the custody rules) rather than in CASS 7, and said these rules should in any case only apply to client money as defined and not all money derived from custody assets.

2.5 One respondent representing several regulated firms also commented on the use of different omnibus accounts. While in agreement with the proposal not to confine liens to a specific

client's assets, this respondent noted that money deriving from assets, for example proceeds of sale, is often paid into a 'coupled' but distinct account to assets. This respondent felt that the rules should be interpreted to allow a lien to be granted over such accounts combined together, that is, to consider the accounts as one, in line with current practice.

2.6 Another respondent was concerned that the changes amounted to granting more flexibility. The respondent wanted firms to be required to inform clients of the impact of any inappropriate general lien on their assets, and suggested that firms could be subject to increased scrutiny regarding the liens they grant over client assets.

2.7 A further three respondents agreed with the proposal. One of these asked for further clarification of 'custody services', saying that this could include related services directly linked to the custody of the assets.

2.8 In general comments, one respondent questioned making reference to client money in the custody rules, and felt that CASS 7 alone should continue to govern client money.

Our response

We disagree with feedback that the rule should be applied to all omnibus accounts held by a firm with a sub custodian taken as one. This could subject clients to greater risk since their assets would be more likely to be subject to a lien and in the event of a firm's insolvency, clients could face delays in the return of their assets or even losses if such a liens was exercised. This is because if the lien is exercised, the assets of one client who has not incurred a charge or liability may be used to subsidise the losses of another client whose assets are held in a separate account and who did incur a liability. If several different accounts are maintained to keep assets in separate groups, we do not consider it to be acceptable that a lien could be granted covering all of these accounts simply because this is administratively easier for the firm and custodian.

When they are responsible for the custody of their clients' safe custody assets, firms must ensure that any liens they grant over these assets to third parties are appropriate and do not risk delaying their return or even losing those assets because of charges and liabilities incurred by another party whose assets are not held in the same account.

We have taken into account feedback that custody assets and client money relating to those custody assets may be recorded in separate but linked accounts for various reasons. As the rules we consulted on cover both safe custody assets and client money derived from those assets, we accept that these accounts are related and that a lien could be held over both accounts in respect of properly incurred charges and liabilities relating to assets and client money derived from those assets. We have clarified the final rules attached to this PS to reflect this.

We note that such a lien would also need to comply with CASS 7.8.1R and CASS 7.8.2R, as well as any other restrictions that may apply.

We do not think it is necessary to define different types of account such as segregated or omnibus as indicated by one respondent as these words should be interpreted in accordance with their natural meaning.

We acknowledge feedback about references to client money as defined in CASS 7 (the client money rules) in CASS 6 (the custody rules). However, we feel that these rules are better placed in CASS 6 as they specifically cover client money derived from custody assets.

As noted in feedback, custody services may involve a range of services in relation to custody, and the rules were drafted to cover liens contained within an 'agreement with that third party relating to the custody of those assets'. We do not think it is necessary to further define the services involved in providing custody of assets. Our final rules (in Appendix 1 to this Policy Statement) mean that if a firm subject to CASS 6 places safe custody assets with a third party, any services the third party undertakes in relation to the custody of those assets would be subject to the restrictions of CASS 6.3.5R and 6.3.6R. This will be the case whether or not the agreement between the third party and the firm specifically references custody services, because by virtue of being a third-party custodian for those assets, the services provided will be in relation to the custody of those assets.

We take into account feedback about increased supervision in this area and remain vigilant to the risks posed by inappropriate liens over client assets.

2.9 In CP11/15 we asked:

> ***Q3:*** *Do you agree with our proposal to permit liens over omnibus accounts held at securities depositories, in securities settlement systems and at central counterparties for the purpose of facilitating the settlement of trades in respect of the assets held in those accounts?*

2.10 Three respondents agreed with the proposal.

2.11 One respondent agreed, but questioned the use of 'assets' in the proposed rule, because liabilities may be in relation to an account rather than a particular asset. Another respondent felt that the proposed rule was problematic as it referred to assets rather than accounts.

Our response

We have taken into account feedback that the question referred to accounts, whereas the draft rule referred to assets, and we have reflected this in the final rules.

Overseas jurisdictions

2.12 In CP11/15 we asked:

> *Q4: Do you agree with our proposed amendments to CASS 6.3.6R(3)(a) so that general liens may be granted over clients assets in overseas jurisdictions if such a lien is necessary for an individual firm to gain access to a local market?*

2.13 Three respondents agreed with this proposal.

2.14 One respondent answering in relation to questions 4, 5 and 6 stated that it was important for clients to be informed of the impact of general liens on their assets, even where a professional client gives an instruction to hold assets in a particular jurisdiction.

2.15 One respondent felt that the proposal was problematic, saying that the existence of liens was only one of a number of considerations firms take into account when selecting a custodian. They felt it could cause a danger of selecting a sub-custodian if it was the only one not to take a security interest, even where that sub-custodian fell short of that firm's usual due diligence process, which would normally have resulted in it selecting a different one.

Our response

When entering into a custody agreement with a third party, we agree that firms should consider other factors in line with the requirements of CASS 6 and their other regulatory obligations, and indeed their own due diligence processes as one respondent noted.

As we have stated throughout the consultation process, inappropriate general and wide-ranging liens are a threat to our statutory objectives of consumer protection and market confidence. This is because in an insolvency the existence of such liens may significantly delay or even preclude the return of clients' assets. If a firm assesses in line with other regulatory requirements or its own assessment criteria that a custodian is not appropriate, then it should not place clients' assets with that custodian.

We accept that in some jurisdictions there may be a limited choice of custodians and that after assessing the custodians against the requirements of CASS 6 and any other obligations on the firm, firms may face a narrowed choice of custodians.

In this case, if the firm is aware that holding the asset in that jurisdiction subject to the relevant lien poses a risk to its client, the firm should at least attempt to negotiate away the general lien in favour of a lien that would otherwise be permitted by CASS 6.3.6R(1) and CASS 6.3.6R(2). The firm must always act in the best interests of its client, in line with the client's best interest rule (where relevant) and Principle 10.

We note that the rules do not prohibit a firm from entering a jurisdiction where the lien is necessary for that particular firm to enter the market, nor do the rules prevent such liens. However, they are only permitted in the situations set out in CASS 6.3.6R(3).

2.16 In CP11/15 we asked:

> ***Q5:*** *Do you agree with our proposal to change CASS 6.3.6R(3)(b) so that general liens may be granted over clients assets in overseas jurisdictions (without the firm taking reasonable steps to establish that the grant of the lien is in the best interests of the client) if a professional client has instructed that the asset be held in that jurisdiction?*

2.17 Three respondents agreed with the proposal.

2.18 One respondent said in relation to questions 4, 5 and 6 stated that it was important for clients to be informed of the impact of general liens on their assets, even where a professional client gives an instruction to hold assets in a particular jurisdiction.

2.19 A further respondent raised concerns in relation to this proposal. This respondent felt that an investment advisor should determine what is in the client's best interests, and that prime brokers simply carry out the instructions of their clients. In addition, the respondent felt it necessary to clarify the exact nature of 'instruction', since clients may not give advance notice of their intention to start trading in a different jurisdiction where a different sub-custodian is used. They also asked if it would be necessary to receive a new instruction or inform the client again if a new sub-custodian was appointed.

Our response

In response to feedback that prime brokers are not responsible for determining their clients' best interests, we remind firms that that they are subject to Principle 10 and the client's best interests rule.

The draft rules published in CP11/15 allow, (under 6.3.6R(3)(b)(ii)), a firm to hold an asset subject to a lien for a professional client in a third country if the professional client instructs the firm to hold the asset in that jurisdiction, 'notwithstanding the existence of that lien'.

We did not define the nature of 'instruction' in the draft rules. However, we have taken note of this feedback and have added guidance to the final rules attached to this PS. We envisage that an instruction may take a number of different forms depending on the type of business being undertaken. But before giving such instruction the client must be aware of the existence of the lien as this allows clients to appreciate the associated risks. This could be done by disclosure and informed consent as part of terms of business, followed by the client's instruction to hold an asset in a particular jurisdiction, or it could be drawn to a client's attention on a case-by-case basis, depending on the circumstances involved.

We note that although these rules apply to firms depositing or arranging for assets to be deposited with a third parties, firms are required to 'exercise all due skill, care and diligence in the selection and appointment of the third party' (CASS 6.3.1R(1)) and they still have these responsibilities towards their client, as well as a requirement to comply with the final rules attached to this PS.

2.20 In CP11/15 we asked:

> ***Q6:*** *Do you think that our proposal to change CASS 6.3.6R(3)(b) should be specifically limited to situations where the professional client is not provided with advice as to where the assets should be held?*

2.21 Three respondents agreed with the proposal.

2.22 One respondent said in relation to questions 4, 5 and 6 stated that it was important for clients to be informed of the impact of general liens on their assets, even where a professional client gives an instruction to hold assets in a particular jurisdiction.

2.23 One respondent said that this situation was not relevant to prime brokers not providing advice on where assets are held and that clients appointed investment advisors for this purpose.

Our response

We have considered this feedback, but we do not believe it is necessary to distinguish in the rules between situations where a professional client is advised or not. We consider that regardless of this, the firm should make the client aware of any wide ranging and general lien that their assets are subject to.

Cost benefit analysis

2.24 In CP11/15 we asked:

> ***Q8:*** *What are your views on the benefits and costs of our proposed policy measures relating to custody liens?*

2.25 Few respondents answered question 8. One respondent said they agreed with our cost benefit analysis.

2.26 One respondent disagreed with the basis cost benefit analysis and felt that rather than using the rules as they stood before CP11/15 as the basis of analysis, the rules as they stood before PS10/16 should be taken as the starting point (this feedback was given in response to the first part of the consultation).

Our response

We published a response to the feedback that disagreed with the basis of the cost benefit analysis in Handbook Notice 113[2], and have not received any further challenge to this response.

The final instrument published in this Policy Statement does not differ significantly from the consultative draft instrument contained in CP11/15. We have added guidance to explain the nature of instruction in response to feedback, and made minor amendments as set out above. The cost benefit analysis remains unchanged from that consulted on.

2 *Handbook Notice 113*, September 2011, paragraphs 4.72 and following, pp. 34 – 35.

Annex 1

List of non-confidential respondents

Below is a list of non-confidential respondents to those questions from CP11/15 addressed in this PS.

Association of Financial Markets in Europe (AFME)

Financial Services Consumer Panel (FSCP)

Depositary and Trustee Association (DATA)

The Bank of New York Mellon

Association of Private Client Investment Managers and Stockbrokers (APCIMS)

In addition to the above, there was one confidential response.

Appendix 1

Made rules (legal instrument)

Annex

Amendments to the Client Assets sourcebook (CASS)

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

6 Custody rules

…

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

…

(4) ~~the restrictions over the third party's right to claim a lien, right of retention or sale over any *safe custody asset* which the *firm* holds for its *client*, or a right of set-off over any *client money* derived from that *safe custody asset*;~~ [deleted]

…

6.3.5 R Subject to *CASS* 6.3.6R, in relation to a third party with which a *firm* deposits *safe custody assets* belonging to a *client*, a *firm* must ensure that ~~the~~ any agreement with that third party relating to the custody of those assets does not include the grant to that ~~third~~ party, or to any other *person*, of a lien or a right of retention or sale over the *safe custody assets*, or a right of set-off over any *client money* derived from those *safe custody assets*.

~~[**Note:** this provision is not in force from 1 October 2011 until 31 March 2012, by virtue of *CASS* TP 1.8]~~

6.3.6 R A *firm* may conclude an agreement with a third party relating to the custody of *safe custody assets* which ~~does confer~~ confers on that ~~third~~ party, or on another *person* instructed by that party to provide custody services for those assets, a lien, right of retention or sale, or right of set-off in favour of that ~~third~~ party or that other *person* ~~if and~~ only if that lien or right:

(1) is confined to ~~an individual *client's safe custody assets* or *client money*~~ those *safe custody assets* held in an account with that third party or that other person and extends only to ~~that third party's (or a sub-custodian's, where a sub-custodian is appointed by that third party)~~ properly incurred charges and liabilities arising from the provision of custody services ~~to that *client*~~ in respect of *safe custody assets* held in that account; or

(2) arises under the operating terms of a securities depository, securities settlement system or central counterparty in whose ~~books or accounts~~

account ~~a *client's client money* or~~ *safe custody assets* ~~is or~~ are recorded or held, and provided that it does so for the purpose only of facilitating the settlement of ~~that *client's*~~ trades involving the assets held in that account; or

(3) arises in relation to ~~a *client's*~~ those *safe custody assets* ~~or *client money*~~ held in a jurisdiction outside the *United Kingdom*, provided that:

(a) it does so as a result of local applicable law in that jurisdiction or ~~as a necessary precondition for participation in a local market~~ is necessary for that *firm* to gain access to the local market in that jurisdiction; and

(b) in respect of each *client* to which those assets belong, either:

(i) the *firm* has taken reasonable steps to determine that holding those assets ~~or that money~~ subject to ~~such a~~ that lien or right is in the best interests of that *client*; or

(ii) where a *client* is a *professional client*, the *firm* is instructed by that *client* to hold those assets in that jurisdiction notwithstanding the existence of that lien or right.

~~[**Note:** this provision is not in force from 1 October 2011 until 31 March 2012, by virtue of *CASS* TP 1.8A]~~

6.3.7 G A *firm* will be considered to be acting on the instructions of its *professional client* under *CASS* 6.3.6R(3)(b)(ii) where:

(1) the *firm* has received an individual instruction or has a standing instruction in its terms of business which results in it holding *safe custody assets* in the relevant jurisdiction; and

(2) prior to acting on the instruction, the *firm* has expressly informed the *client* that holding that *client's safe custody assets* in the relevant jurisdiction will involve the granting of a lien or right over those assets. The *firm* may do this by discussing the lien or right individually with the *client* or by including reference to it in terms of business (which may themselves cross refer to a separate list of relevant jurisdictions to which 6.3.6R(3)(a) applies maintained on the *firm*'s website in a form accessible to *clients*) or by a similar method.

6.3.8 R For the purpose of *CASS* 6.3.6R, references to a *safe custody asset* include any *client money* derived from that *safe custody asset*. *Client money* derived from a *safe custody asset* may be regarded as held in the same account as that *safe custody asset* even though that money and those assets may be recorded separately.

6.3.9 R *CASS* 6.3.6R does not permit a *firm* to agree to a right of set-off of the kind

prohibited by either *CASS* 7.8.1R or *CASS* 7.8.2R in relation to *client money*.

…

TP 1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
…					
8	*CASS* 6.3.5R	~~R~~	~~The *rule* listed in column (2) does not apply.~~ [deleted]	~~1 October 2011 until 31 March 2012~~	~~1 October 2011~~
8A	~~*CASS* 6.3.6R~~ *CASS* 6.3.5R to *CASS* 6.3.8R	R	~~The *rule* listed in column (2) does not apply.~~ The *rules* listed in column (2) do not apply in relation to agreements executed before 1 April 2012.	~~1 October 2011 until 31 March 2012~~ 1 April 2012 until 30 September 2012	~~1 October 2011~~ 1 April 2012
		~~G~~	Notwithstanding the operation of *CASS* TP 1.1R(8A), a *firm* should as soon as reasonably practicable modify its agreement with that third party so as to meet the requirements of *CASS* 6.3.5R to *CASS* 6.3.8R.		
9	*CASS* 6.1.6R(2) and *CASS* 6.1.6AR	~~R~~	~~The *rules* to which column (2) refers do not apply in relation to an agreement that would otherwise be prohibited by *CASS* 6.1.6AR as a result of its application to a *rolling spot forex contract*.~~ [deleted]	~~1 October 2011 until 31 October 2011~~	~~1 October 2011~~
		~~G~~	~~Notwithstanding the operation of *CASS* TP 1.1(9)R, a *firm* should as soon as reasonably practicable modify its contractual agreement with that *retail client* so as to remove its ability to utilise that title~~		

			~~transfer collateral arrangement.~~		
10	*CASS* 7.2.3R(2) and *CASS* 7.2.3AR	~~R~~	~~The *rules* to which column (2) refers do not apply in relation to an agreement that would otherwise be prohibited by *CASS* 7.2.3AR as a result of its application to a *rolling spot forex contract*.~~ [deleted]	~~1 October 2011 until 31 October 2011~~	~~1 October 2011~~
		~~G~~	~~Notwithstanding the operation of *CASS* TP 1.1(10)R, a *firm* should as soon as reasonably practicable modify its contractual agreement with that *retail client* so as to remove its ability to utilise that title transfer collateral arrangement.~~		

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