

Client Asset sourcebook (CASS)

There are a large number of changes being made to CASS which cover the entire operation of the client money and custody rules for investment firms.

The changes are being introduced in three stages: 1 July 2014, 1 December 2014 and 1 June 2015. We expect all firms to be in compliance with the changes (to the extent relevant) introduced at each stage.

The table below summarises the key changes in PS14/9 and points out the corresponding paragraphs in the PS that explain these changes. In addition, the last three columns set out the CASS rule references from the date that the rule comes into force (1 July 2014, 1 December 2014 or 1 June 2015). If a box in the table reads 'N/A' it means that the rule change will not be in force at the date at the top of the corresponding column.

This table does not cover all the changes proposed in CP13/5 and we encourage firms to consider the detail in the PS and in particular in the legal instruments in Appendix 1.

Key topics	High level summary of changes being introduced	Relevant paragraphs in this PS	CASS rule references at 1 July 2014	CASS rule references at 1 December 2014	CASS rule references at 1 June 2015
CASS 1 – application provisions					
Application of the Client Assets sourcebook (CASS 1)	General guidance clarifying the application of CASS to affiliates and trustee firms.	10.4 to 10.6		1.2 to 1.4	
CASS 3 – collateral rules					
Application of collateral rules	General guidance reminding firms of their obligations under the client’s best interest rule when agreeing to a collateral arrangement.	10.7		3.1.7AG	
CASS 6 – custody rules					
Application of the custody rules	General guidance clarifying which rules apply to depositaries of AIFs and when a firm is arranging safeguarding and administration of assets.	5.2	6.1.1R, 6.1.16FR, 6.1.16JR and 6.1.16KR		

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Registration of firm assets and custody assets	A firm's ability to register title to its own assets in the same name as any custody assets registered in the name of a nominee will be restricted to circumstances in which this is necessary to facilitate a client transaction (e.g. in handling dealing errors, allocating bulk deals and/or processing transaction in fractional shares) or as a result of the law or market practice of an overseas jurisdiction.	5.4 to 5.19		N/A	6.2.3R to 6.2.6G
Depositing custody assets when using third parties	We are introducing a number of clarifications, reordering the rules to improve readability and amending the matters a firm should consider when selecting, appointing and periodically reviewing any third party custodian with whom it deposits assets.	5.20 to 5.22		N/A	6.3.1R to 6.3.4A-1R
Written custody agreements	Firms will be required to have in place a written agreement whenever they place custody assets, or arrange for custody assets to be placed, with a third party custodian.	5.23 to 5.26	N/A	6.3.4AR to 6.3.4BG	
Right to use arrangements	Reminder to firms that they must consider their client's best interest when agreeing to a right to use arrangement with a retail client.	5.27	6.4.1AG to 6.4.2G		
Custody recordkeeping, record checks and reconciliations	We are: (a) updating our rules to accommodate firms that use integrated systems to maintain their records for custody assets; (b) introducing a minimum frequency at which firms are required to undertake reconciliations or perform other checks to ensure the accuracy of their records for custody assets; (c) clarifying the obligation on firms to fund shortfalls in custody assets only for which they are responsible (using a firm's own assets or, where appropriate, other funds); and (d) introducing more detailed notification and recordkeeping requirements (including requiring firms to maintain internal procedures and policies for their custody reconciliations).	5.28 to 5.97		N/A	Various rules in 6.6 (6.5 will have been deleted in its entirety from 1 June 2015 and replaced by 6.6)
Both CASS 6 and 7					
TTCA - written agreements	We are requiring all firms to have a written agreement in place for all title transfer collateral arrangements ('TTCA').	6.2 to 6.15	N/A	6.1.6BR to 6.1.6CG, 7.2.3BR to 7.2.3CG, TP1.1(7A) and TP1.1(9B)	6.1.6BR to 6.1.6CG and 7.11.1R to 7.11.8G
TTCA - procedure for switching	We are prescribing the mechanism firms should follow if a client requests protections under CASS for assets and monies subject to TTCA.		N/A		6.1.8AR to 6.1.8EG and 7.11.9R to 7.11.13G

Key topics	High level summary of changes being introduced	Relevant paragraphs in this PS	CASS rule references at 1 July 2014	CASS rule references at 1 December 2014	CASS rule references at 1 June 2015
DvP exclusion for commercial settlement systems	The final rules set out exactly when a firm is allowed to cease to treat money as client money or cease to apply our custody rules to a custody asset, as applicable, while carrying out a 'delivery versus payment' ('DvP') transaction through a commercial settlement system and ensure clients agree to these arrangements.	6.16 to 6.32	N/A	6.1.12R to 6.1.12ER and 7.2.8AG to 7.2.8AER	6.1.12R to 6.1.12ER and 7.11.14R to 7.11.20R
Unclaimed client money	Clarifications to the existing rules providing firms with an optional mechanism to deal with allocated but unclaimed client money under our rules (i.e. gift to charity) if certain conditions are met (e.g. reasonable steps having been taken to trace the client). Firms will also be permitted to pay away de minimis amounts of client money (£25 for retail clients and £100 for professional clients) after following an abbreviated procedure.	6.33 to 6.51	N/A	7.2.18G to 7.2.26G	7.11.48G to 7.11.58G
Unclaimed custody assets	We are providing firms with an optional mechanism to deal with unclaimed custody assets under our rules (i.e. gift to charity) if certain conditions are met (e.g. reasonable steps having been taken to trace the client).	6.52 to 6.56	N/A	6.2.8G to 6.2.16G	
CASS 7 – client money rules					
Application of the client money rules	We are introducing certain amendments to the relevant rules and further guidance to clarify when the client money rules are applicable to firms' activities.	7.2 to 7.3	7.1.1AR to 7.1.1BG		7.10.1R to 7.10.2G
Banking exemption	We are clarifying the application of the exemption from the client money rules that banks may use and introducing new requirements around the notifications that banks must make to their clients.	7.4 to 7.19	N/A	7.1.8AR to 7.1.10CR	7.10.16R to 7.10.24G
Trustee firms	We are disappling the client money distribution rules to client money held by a trustee firm and introducing the ability of trustee firms to opt in to certain client money rules.	7.20 to 7.35	7.1.15FR to 7.1.15LG		7.10.33R to 7.10.40G
DvP exclusion for collective investment schemes	Authorised fund managers will be permitted to cease to treat money as client money for a one-day window while carrying out a 'delivery versus payment' ('DvP') transaction for the purpose of settling a transaction in relation to units in a regulated collective investment scheme. Firms will also be obliged obtain clients' agreement to these arrangements.	7.36 to 7.53	N/A		7.11.21R to 7.11.24R
Payment of interest on client money	We are clarifying when firms are and are not required to pay clients the interest earned on client money.	7.54 to 7.56	7.2.14AR to 7.2.14BG		7.11.32R to 7.11.33G
Money ceasing to be client money	Certain clarifications and revisions to accommodate transfer of business, unclaimed client money and a firm's legal obligations to pay client money to a third party.	7.57 to 7.63	7.2.15R		7.11.34R to 7.11.40R

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Transfer of business – handling client money	We are setting out requirements relating to assignment clauses in client agreements if they are to serve as client consent to transfer a client’s client money to a third party in the context of a business transfer to allow assignment clauses to be used as an alternative to obtaining client consent at the time of the transfer.	7.64 to 7.80	N/A	7.2.17AG to 7.2.17GR	7.11.41G to 7.11.47R
Client bank accounts – due diligence and diversification	We are enhancing the due diligence requirements that firms must carry out on banks with whom they place client money, and requiring firms to periodically assess whether they are appropriately diversifying the third parties with which they place client money and following each assessment make adjustments (to the third parties and/or amounts placed at each) accordingly.	7.81 to 7.97	N/A		7.13.8R to 7.13.12R and 7.13.20R to 7.13.25R
Unbreakable term deposits	We are prohibiting firms from placing money in a deposit with an unbreakable term of more than 30 days.	7.98 to 7.106	7.4.11AR to 7.4.12G		7.13.13R to 7.13.15G
Immediate segregation	Except where firms are using the alternative approach to client money segregation, we are generally requiring firms to receive all client money directly into a client bank account. However, the final rules will permit firms who act as a clearing member of CCPs in certain situations to receive client money into a house account before transferring it to a client bank account so long as they maintain prudent segregation in their client bank account to address intra-day risk.	7.107 to 7.112	N/A		7.13.6R to 7.13.7G
Physical receipts	We are clarifying how firms should treat client money receipts in the form of cash and cheques and how these should be reflected in the internal client money reconciliation.	7.128 to 7.132	N/A		7.13.32R to 7.13.33R
Cleared funds	We are reiterating the principle that one client’s money should not be used to fund another client’s investment business.	7.133 to 7.140	N/A		7.12.3G
Money due to client from firm	This was previously guidance but has been made into a rule.	7.145 to 7.147	N/A		7.13.39R to 7.13.40G
Prudent segregation	We are setting out procedures and recordkeeping requirements that firms must follow if they intend to prudently segregate money in a client bank account to address specific risks.	7.148 to 7.157	N/A		7.13.41R to 7.13.53R
Alternative approach to client money segregation	We are: (a) setting out clear procedures that a firm must follow to establish whether it considers that the use of the alternative approach to client money segregation is appropriate for a particular business line; and (b) requiring firms to use prudent segregation to address the risks to client money that may arise due to a firm using this approach.	7.158 to 7.167	N/A	7.4.17AG to 7.4.19CR	7.13.54G to 7.13.69G

Key topics	High level summary of changes being introduced	Relevant paragraphs in this PS	CASS rule references at 1 July 2014	CASS rule references at 1 December 2014	CASS rule references at 1 June 2015
Client money held at third parties	We are clarifying that in certain circumstances a firm may allow a third party to hold client money but still remain responsible to the client for that money, setting out the record and account keeping requirements in those circumstances.	7.198 to 7.203	7.5.1G to 7.5.3G		7.14.1G to 7.14.4G
Client money relating to custody assets held at a custodian	Revised rules to clarify that where a firm deposits custody assets with a third party, any client money derived from those assets should either be held in a client bank account or in a client transaction account, as appropriate.	7.204 to 7.206		N/A	7.14.5G to 7.14.9G
Client money recordkeeping and reconciliations	We are: (a) establishing clear requirements as to the steps a firm is expected to follow when undertaking an internal client money reconciliation (a 'standard method'); (b) clarifying the circumstances in which a firm is able to undertake a non-standard method of internal client money reconciliation; (c) mandating the minimum frequency at which firms should undertake client money reconciliations (both internal and external); and (d) introducing more detailed notification and recordkeeping requirements.	7.207 to 7.231		N/A	7.15 and 7.16 (7.6 and 7 Annex 1G will have been deleted in their entirety from 1 June 2015)
Auditor assurances	We are requiring firms that operate an alternative approach to client money segregation and/or a non-standard method of internal client money reconciliation to obtain before carrying out the proposed approach/method an auditor's report prepared on the basis of a reasonable assurance engagement. As part of this process, the auditor will be required to opine on whether the proposed approach/method will achieve the desired regulatory outcome (e.g. an appropriate internal client money reconciliation/correct calculation of the alternative approach mandatory prudent segregation amount).	7.168 to 7.184 and 7.232 to 7.240		N/A	7.4.17ER and 7.6.6AR
Acknowledgement letters	We are: (a) introducing a template firms must use when drafting and exchanging acknowledgment letters with the third parties with whom they deposit or place client money; (b) requiring firms in all circumstances to have an acknowledgment letter in place before they place client money in the relevant account; (c) providing guidance around the formalities involved when drafting and executing these letters in different circumstances; and (d) mandating how often and in what circumstances firms should review and update the letters they have in place.	7.280 to 7.348		N/A	7.8, Annex 2R, Annex 3R, Annex 4R and Annex 5G

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CFTC Part 30 exemption order	We are providing additional guidance to clarify the obligations placed on firms in relation to FCA-regulated business conducted under the CFTC Part 30 exemption order.	7.349 to 7.355		12.1.1R to 12.2.6G	
CASS 7 and 7A - multiple client money pools					
Operation of multiple client money pools	We are introducing rules to permit clearing member firms of CCPs to offer multiple client money sub-pools in relation to net margined omnibus client accounts at CCPs.	4.1 to 4.29		7.19	
CASS 8 – mandate rules					
Non-written mandates	We are introducing revised rules to: (a) ensure firms keep appropriate records of non-written mandates; (b) remove the requirement on firms to hold records of all mandates indefinitely; and (c) clarify the form and content of records to be retained around mandates.	8.2 to 8.5		N/A	8.2.2G to 8.2.6G and 8.3.2R to 8.3.2HG
CASS 9 – information to clients					
Reporting to clients (on client assets)	We are: (a) requiring firms to honour client requests for information on their holdings of client assets, but will permit firms to agree to charge clients the reasonable costs for doing so; and (b) clarifying that where a firm provides a report to a client on its holdings of client assets for that client, a firm should ensure that it is clear from the report when assets or monies are, or are not, protected under either or both our custody rules and client money rules.	9.9 to 9.19		N/A	9.1.1R and 9.5.1G to 9.5.9G
Information to clients on safeguarding client assets	We are requiring firms to provide the same information to all client types, and for all types of custody assets, as is currently required to be provided to only retail clients, and for specific asset types, under our existing information requirements for firms holding client assets (see COBS 6.1.7R).	9.20 to 9.26	N/A		9.4.1G to 9.4.4G
Miscellaneous					
Consequential changes to other parts of the Handbook	A number of additional consequential changes are being made to our requirement for CASS RP (CASS 10), CMAR (SUP 16.4 Annex 29 and Annex 29A) and the client money distribution rules to reflect the changes being made above and provide additional clarification.	10.1 to 10.12		Various changes to 7A (e.g. relating to trustee firms and multiple client money pools)	Various changes to CASS 10, SUP 16 Annex 29R and 29A