

Policy Statement

PS12/6

Financial Services Authority

The CASS Resolution Pack

March 2012



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This Policy Statement reports on the main issues in relation to the CASS Resolution Pack arising from Consultation Paper 11/16 (*Recovery and Resolution Plans*) and publishes final rules.

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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

CASS	Client Assets sourcebook
CASS RP	Client money and assets resolution pack
CBA	Cost benefit analysis
client assets	Client money and safe custody assets
CMAR	Client Money and Assets Return
CP	Consultation Paper
EMIR	European Market Infrastructure Regulation
IP	Insolvency practitioner
LBIE	Lehman Brothers International (Europe)
MF Global	MF Global UK Limited

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Overview

Introduction

- 1.1** In this paper we set out the final rules requiring certain firms to maintain and be able to retrieve a CASS Resolution Pack (CASS RP). The CASS RP contains documents and records that would help an insolvency practitioner (IP) return client money and safe custody assets (client assets) more quickly following an investment firm failure. We consulted on these rules in Consultation Paper 11/16 and here we summarise the feedback we received and explain the changes we have made as a result. We will set out our response to the other matters covered in CP11/16 in due course.

Background

- 1.2** CASS is our Client Assets sourcebook, the section of the Handbook that sets out rules to provide regulatory protection for client assets. In CP11/16 we proposed adding to our rules in CASS to require certain investment firms to prepare and maintain resolution packs.
- 1.3** We proposed requiring in-scope firms to maintain a CASS RP containing certain new and existing documents and records relating to client assets that can be retrieved within 48 hours of the appointment of an IP or at the request of the FSA.
- 1.4** Following the collapse of both Lehman Brothers International (Europe) (LBIE) and MF Global UK Limited (MF Global), the introduction of the CASS RP is one step towards ensuring the speedier return of client assets. We are currently undertaking a fundamental review of the framework relating to the distribution of client assets. This review may conclude that fundamental changes are required to the client assets distribution regime.

Structure of this paper

- 1.5 In the first part we outline feedback on the CASS RP rules and explain changes we have made to those rules. Appendix 1 contains the final Handbook text for the CASS RP.

Who should read this Policy Statement?

- 1.6 This policy should be read by investment firms subject to chapter 6 (custody rules) and/or chapter 7 (client money rules) of CASS including those classified as CASS small, medium or large firms¹ under the CASS rules. It may also be of interest to policymakers and practitioners involved in the resolution of failed firms.

Next steps

- 1.7 Firms will have until 1 October 2012 to comply with the CASS RP rules.

1 <http://fsahandbook.info/FSA/html/handbook/CASS/1A/2>

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CASS Resolution Pack

Wider client assets distribution related work

- 2.1** Protecting client assets remains a regulatory priority. Client asset regulation seeks to ensure that firms exit from markets in an orderly manner and that client assets are returned as soon as possible. Our specialist Client Asset Unit continues to lead the FSA's client asset work and comprises four main functions: risk management, data analysis, firm supervision and policy development.
- 2.2** The CASS RP forms part of the significant work we are conducting to ensure the timely distribution of client assets following the failure of a firm. We are reviewing our client assets regime following the lessons learnt from ongoing insolvencies, the recent Lehman Brothers International (Europe) (In Administration) Supreme Court judgment and developments in the European Market Infrastructure Regulation (EMIR).
- 2.3** We do not expect the fundamental requirement for firms to maintain a CASS RP will change as a result of this review. However, in order to improve client assets protection and increase market confidence, we do expect regulation in this area to become more focused on the effective segregation and rapid return of client assets.
- 2.4** While the CASS RP is part of a wider framework of measures relating to client assets our response in this paper is restricted to proposals outlined in Chapter 6 of CP11/16.

Consultation in CP11/16 and changes made to the final rules

- 2.5** The CASS RP proposals seek the speedier return of client assets when a firm fails by ensuring the information and records required by an IP to return client assets are readily accessible after the failure.
- 2.6** We received 25 responses to these proposals from firms, firm advisers and industry associations. We have considered this feedback and had further discussions with industry participants. The rest of this chapter summarises the feedback we received, together with

our response, provides an explanation of amendments we have made to the final rules and gives further explanation where we feel we can make our policy clearer.

- 2.7 The final rules, which will be set out in Chapter 10 of CASS, are included in Appendix 1 to this paper. Firms will have until 1 October 2012 to comply with these rules.

Who the proposals apply to

- 2.8 The requirement to maintain a CASS RP applies to firms, to which either or both of CASS 6 (custody rules) and CASS 7 (client money rules) applies by virtue of their holding client assets such as brokers, investment banks and custodians. These firms are classified as CASS small, medium or large.² The rules do not apply to a firm to which CASS 6 applies merely because it is a firm that arranges safeguarding and administration of assets. Also, insurance intermediaries subject to CASS 5 will not be subject to this CASS RP requirement.

Summary of responses to questions 10-13 of CP11/16 and changes to the final rules

Q10: Do you agree with our stated policy objective, which is to promote the speedier return of client money and assets?

- 2.9 All respondents to this question supported this objective. The main reasons they cited are that it reflects the lessons learned from the failures of LBIE and MF Global and it promotes consumer protection and confidence in the financial services industry.
- 2.10 The responses also included comments that the proposals risk duplicating existing CASS requirements which already have a clear purpose of facilitating the speedy return of client assets.

Our response

The CASS RP will require a firm to retrieve documents and records, many of which we would expect it to already hold so that its client assets systems and controls can be fully understood and other documents and records which are required under specific FSA Handbook requirements. The CASS RP rules do not require firms to duplicate or hold these documents and records in hard copy, but to ensure that their organisational arrangements allow them to retrieve the CASS RP promptly.

² <http://fsahandbook.info/FSA/html/handbook/CASS/1A/2>

In our view, this requirement addresses the potential lack of incentive that a firm has to ensure that information that would help an IP to return client assets quickly will be accessible once the firm has become a gone concern and this is not addressed elsewhere in CASS.

Q11: Do you agree that we should establish a CASS RP to help achieve this objective, and to contribute toward better outcomes in general?

- 2.11** Most respondents supported the establishment of a CASS RP as they see it as helpful in allowing an IP to act swiftly, increasing the speed of return of client assets and minimising the risk of damaging market confidence.
- 2.12** A few respondents highlighted reservations about the ability of the CASS RP to achieve this objective. These reservations included that where accounting records and/or a CASS RP are deficient, the introduction of the CASS RP will not help an IP and it is therefore key that CASS compliance remains high on firms' agendas and is effectively supervised and enforced by the FSA.

Our response

The CASS RP is an initial step in a wider review of the client assets distribution regime. We are continuing our intensive and intrusive approach to supervising firms to ensure that deficiencies in CASS compliance are identified and rectified; the recent introduction of the CASS operational oversight responsibility³ and Client Money and Assets Return (CMAR) will help with this.

Q12: Do you have any comments on the proposed policy, as set out above, and in Annex 4 of the CP/DP annexes?

Application of the CASS RP rules to firms

- 2.13** A number of respondents asked us to clarify how the CASS RP rules will apply.

³ In line with CASS 1A.3, for CASS small firms, the responsibility for CASS operational compliance must be allocated to an approved person. For CASS medium and large firms, a director or senior manager must be appointed to the function of CA10a, CASS operational oversight.

Our response

The requirement to maintain a CASS RP applies to firms to which either or both of CASS 6 and CASS 7 applies by virtue of their holding client assets. However, it does not apply to a firm to which CASS 6 applies merely because it is a firm which arranges safeguarding and administration of assets. Insurance intermediaries subject to CASS 5 will not be subject to the CASS RP requirements.

The application of the various chapters of CASS is not amended by the addition of the CASS RP rules.

Firms are required to maintain a CASS RP for the duration of the period during which they hold client assets (under CASS 6 and/or 7) and they should ensure that they have a CASS RP in place from the time they begin to hold client assets.

Period of retrieval for CASS RP

- 2.14** The draft rules required firms to ensure that CASS RP documents can be retrieved within 48 hours and that material inaccuracies in the content of certain CASS RP documents are corrected within five business days of the inaccuracy arising. Some respondents thought this five day correction period should be reduced to 48 hours, while others thought the period was reasonable.
- 2.15** We received a number of comments on the 48 hour retrieval period. Some respondents considered that 48 hours would be over ambitious and unrealistic for the more complex organisations. Other feedback received indicated that firms should be required to provide certain information to an IP immediately.

Our response

We do not believe that reducing the five day period for firms to correct material inaccuracies in certain CASS RP documents to 48 hours would provide benefits (including more up-to-date information) that would outweigh the associated costs (including staff and systems).

On the basis of the conflicting feedback on the retrieval period we undertook further consultation. Following this further consultation we believe 48 hours for the retrieval of CASS RP documents is both reasonable and achievable. This is because, in reality, many CASS RP documents are those which firms are already expected to produce frequently (for example, reconciliation records) or to maintain and refer to as part of their current CASS organisational arrangements, and should therefore be easily and quickly accessible. In addition, firms are

permitted to hold CASS RP documents in electronic form, meaning that the retrieval of CASS RP documents need not involve a lengthy process of locating existing hard copy documents.

The CASS RP rules specify a *retrieval* period for a firm's CASS RP and firms must not use this period to start producing the constituent elements of the CASS RP.

We have amended the final rules to make it clear that firms will be required to have adequate arrangements in place to ensure that the CASS RP documents can be retrieved as soon as practicable and in any event within 48 hours, both on a business as usual basis and in an insolvency situation. We have also inserted an evidential rule explaining that we expect firms to be able to retrieve certain documents, such as a list of appointed institutions and accounts, internal and external reconciliations, trust acknowledgement letters and a list of relevant individuals, immediately. Retrieving these documents immediately will allow an IP to quickly identify and freeze client assets, ensuring that they are not dissipated. Any incremental costs are expected to be minimal because firms should already have these documents at hand under the consulted CASS RP rules and other FSA Handbook requirements.

A firm should ensure that its arrangements with service providers and other third parties whose electronic systems will be important to the delivery of the CASS RP remain operational and accessible to it following the firm's failure (e.g. the systems are not automatically switched off).

It is often the case that the court appointed IP has already been advising the firm in relation to its insolvency. Therefore we have inserted guidance in the final rules stating that when a firm is likely to be the subject of an insolvency or analogous order, the firm should meet a request from that adviser for the retrieval of its CASS RP.

The 48 hour period includes non-business day and business day hours (i.e. weekends and bank holidays), as in an insolvency situation work to ensure the identification and prompt distribution of client assets can begin at any time.

To the extent that firms are intending to rely on other members of their group for the provision of CASS RP documents, they must ensure that the arrangements they have in place with those entities allow such documents to be provided – without restriction – to the firm, an IP or the FSA on the firm's failure.

Existing records forming part of the CASS RP

- 2.16** A firm is required to include records in its CASS RP that are required under various parts of the FSA Handbook. A few respondents commented that some of the documents required under this rule are unlikely to be of any benefit to an IP and other respondents asked for clarification of the kind of records we would expect to be provided.

Our response

The CASS RP does not require physical duplication of existing records. It is sufficient for a firm to set out how to retrieve these existing records in the master document it maintains as long as the records can be retrieved within the timeline specified in the rules. In our view, where a record is already required under another part of the FSA Handbook, given that firms are not being asked to duplicate such records, including them in the CASS RP so that they can be retrieved promptly is likely to contribute to the speedier return of client assets without being disproportionately onerous on firms.

The CASS RP rules do not redefine record keeping requirements in other areas of the FSA Handbook, but require firms to be able to retrieve promptly those records that they already keep under those rules. Firms should seek guidance if they are unsure of their record keeping requirements under any FSA Handbook rules that are cross referred to in CASS 10.

Other changes made in the final rules

Documents identifying individuals and structure chart

Some respondents commented that the scope of the requirements to include a document identifying relevant individuals and a group structure chart was too wide and would result in firms providing an IP with unnecessary information.

In light of these comments we have amended the final rules to narrow the scope of these requirements and focus them on key information that an IP would require.

Amendment to annual return to FSA

Following consideration during the consultation period, we have decided to remove the requirement for firms to submit an annual report to us in relation to CASS RP compliance. We have replaced this with a rule that those with responsibility for CASS operational

oversight are required to report at least annually to the firm's governing body in respect of its CASS RP. In addition, firms must notify us if they have not complied with the CASS RP requirements.

List of appointed institutions and accounts

We have amended the rules to require firms to include in their CASS RPs information on those institutions which they (or through agents or otherwise) have appointed to hold client assets and the accounts at these institutions. This reflects the fact that at any given time a firm may not hold client assets in all of the accounts or at all of the institutions which it has appointed, but it will be useful for an IP to have the full picture of where a firm could have placed any client assets. The CASS RP will also contain the firm's latest reconciliations showing the most up to date information available as to which of those institutions and accounts currently hold client assets.

Requirement to allow retrieval of copies of agreements

We have amended the final rules to make it clear that an executed agreement between a firm and an institution appointed to hold client assets or a third party (as the case may be) includes reference to any acknowledgement of trust letters and any side letters relating to client assets (as applicable). Firms may retrieve copies of such agreements and letters, rather than the original versions.

Clarification of certain rule requirements

Document detailing how an IP can access third party service providers' information

We would expect such a document to include, for example, the names and contact details of individuals holding the relevant client assets information at a third party and instructions about how to access and use any relevant websites. Examples of service providers include third-party administrators, outsourced parties and affiliated companies of the firm.

CASS RP manual

We would expect a firm to include in its CASS RP manual those documents and materials which it has developed to govern and evidence its compliance with its CASS organisational requirements. This would include for example its general systems and controls and approved persons requirements as they relate to CASS. This manual can cross refer to client assets related documents as necessary, provided that such documents can be retrieved promptly and their accuracy is maintained.

Q13: Do you agree that the CASS RP will contribute to promoting the speedier return of client money and assets?

- 2.17 Most of those who responded to this question agreed that the CASS RP will contribute to promoting the speedier return of client assets.

Cost-benefit analysis for the CASS RP

Q20: Do you have any comments on the cost benefit analysis?

- 2.18 Two firms responded on the cost benefit analysis for the CASS RP. One firm commented that the potential impact of ‘another Lehman Brothers’ in terms of economic cost would appear to be significantly greater than the collective business cost of implementing and maintaining the CASS RP on an ongoing basis. The other respondent questioned the scope of the firms that we had surveyed and thought that the requirement to create some new documents would have a significantly disproportionate effect on smaller firms.

Our response

We selected firms for our CBA survey from across the spectrum of firms doing investment business and provided indicative costs for a range of firms. The CASS RP requirements are proportionate in that smaller firms may require less time, fewer resources and incur lower costs in fulfilling the requirements because they are likely to have less complex systems and business arrangements.

We therefore conclude that the cost benefit analysis remains unchanged from that consulted upon.

Annex 1

List of non-confidential respondents in relation to the CASS RP proposals

The Association of Private Client Investment Managers and Stockbrokers

Avantage

Aviva

Baillie Gifford & Co

Barclays Bank PLC

British Bankers' Association

BNY Mellon

CMC Markets

Consumer Panel

Depository and Trustee Association

International Financial Data Services

Investment Managers Association

Northern Trust

Practitioner panel

PricewaterhouseCoopers

RBS Group plc

Smaller Businesses Practitioner Panel

Standard Chartered Bank

Standard Life Savings Ltd

UBS AG

Appendix 1

Made rules (legal instrument)

CLIENT ASSETS SOURCEBOOK (RESOLUTION PACK) INSTRUMENT 2012

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 59 (Approved persons);
 - (2) section 138 (General rule-making power);
 - (3) section 139 (Miscellaneous ancillary matters);
 - (4) section 149 (Evidential provisions);
 - (5) section 156 (General supplementary powers); and
 - (6) 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 October 2012.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Client Assets sourcebook (CASS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Client Assets Sourcebook (Resolution Pack) Instrument 2012.

By order of the Board
21 March 2012

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

CASS resolution pack those documents and records which are specified in *CASS 10.2* and *CASS 10.3*.

Amend the following as shown.

client money ...

(2A) (in *CASS 6*, *CASS 7*, ~~and~~ *CASS 7A* and *CASS 10* and, in so far as it relates to matters covered by *CASS 6*, *CASS 7*, or *COBS*) subject to the *client money rules*, *money* of any currency:

...

...

Annex B

Amendments to the Client Assets sourcebook (CASS)

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

After CASS 9 insert the following new chapter. The text is not underlined.

10 CASS resolution pack

10.1 Application, purpose and general provisions

Application

- 10.1.1 R (1) Subject to (2) this chapter applies to a *firm* when it:
- (a) holds *financial instruments*, or is *safeguarding and administering investments*, in accordance with CASS 6; and/or
 - (b) holds *client money* in accordance with CASS 7.
- (2) This chapter does not apply to a *firm* to which CASS 6 applies merely because it is a *firm* which *arranges safeguarding and administration of assets*.

Purpose

- 10.1.2 G The purpose of the *CASS resolution pack* is to ensure that a *firm* maintains and is able to retrieve information that would, in the event of its insolvency, assist an insolvency practitioner in achieving a timely return of *client money* and *safe custody assets* held by the *firm* to that *firm's clients*.

General provisions

- 10.1.3 R A *firm* falling within CASS 10.1.1R must maintain and be able to retrieve, in the manner described in this chapter, a *CASS resolution pack*.
- 10.1.4 G A *firm* is required to maintain a *CASS resolution pack* at all times when CASS 10.1.1R applies to it.
- 10.1.5 G (1) The *rules* in this chapter specify the types of documents and records that must be maintained in a *firm's CASS resolution pack* and the retrieval period for the pack. The *firm* should maintain the component documents of the *CASS resolution pack* in order for them to be retrieved in accordance with CASS 10.1.7R, and should not use the retrieval period to start producing these documents.
- (2) The contents of the documents that constitute the *CASS resolution*

pack will change from time to time (for example, because daily reconciliations must be included in the pack).

- (3) A *firm* is only required to retrieve the *CASS resolution pack* in the circumstances prescribed in *CASS 10.1.7R*.

10.1.6 R For the purpose of this chapter, a *firm* will be treated as satisfying a *rule* in this chapter requiring it to include a document in its *CASS resolution pack* if a member of that *firm's group* includes that document in its own *CASS resolution pack*, provided that:

- (1) that *group* member is subject to the same *rule*; and
 (2) the *firm* is still able to comply with *CASS 10.1.7R*.

10.1.7 R In relation to each document in a *firm's CASS resolution pack* a *firm* must:

- (1) put in place adequate arrangements to ensure that an administrator, receiver, trustee, liquidator or analogous officer appointed in respect of it or any material part of its property is able to retrieve each document as soon as practicable and in any event within 48 hours of that officer's appointment; and
 (2) ensure that it is able to retrieve each document as soon as practicable, and in any event within 48 hours, where it has taken a decision to do so or as a result of an *FSA* request.

10.1.8 R Where documents are held by members of a *firm's group* in accordance with *CASS 10.1.6R*, the *firm* must have adequate arrangements in place with its *group* members which allow for delivery of the documents within the timeframe referred to in *CASS 10.1.7R*.

- 10.1.9 E (1) For the purpose of *CASS 10.1.7R*, the following documents and records should be retrievable immediately:
- (a) the document identifying the institutions referred to in *CASS 10.2.1R(2)*;
 - (b) the document identifying individuals pursuant to *CASS 10.2.1R(4)*;
 - (c) any written notification or trust acknowledgement letters referred to in *CASS 10.2.1R(5)*;
 - (d) the most recent internal reconciliations relating to *safe custody assets* referred to in *CASS 10.3.1R(3)*;
 - (e) the most recent external reconciliations relating to *safe custody assets* referred to in *CASS 10.3.1R(5)*;
 - (f) the most recent internal reconciliations relating to *client money* referred to in *CASS 10.3.1R(7)*; and

- (g) the most recent external reconciliations relating to *client money* referred to in CASS 10.3.1R(9).
- (2) Where a *firm* is reliant on the continued operation of certain systems for the provision of component documents in its *CASS resolution pack*, it should have arrangements in place to ensure that these systems will remain operational and accessible to it after its insolvency.
- (3) Contravention of (1) or (2) may be relied upon as tending to establish contravention of CASS 10.1.7R.
- 10.1.10 G Where a *firm* anticipates that it might be the subject of an *insolvency order*, it is likely to have sought advice from an external adviser. The *firm* should make the *CASS resolution pack* available promptly, on request, to such an adviser.
- 10.1.11 R (1) A *firm* must ensure that it reviews the content of its *CASS resolution pack* on an ongoing basis to ensure that it remains accurate.
- (2) In relation to any change of circumstances that has the effect of rendering inaccurate, in any material respect, the content of a document specified in CASS 10.2.1R, a *firm* must ensure that any inaccuracy is corrected promptly and in any event no more than five *business days* after the change of circumstances arose.
- 10.1.12 G For the purpose of CASS 10.1.11R(2), an example of a change that would render a document inaccurate in a material respect is a change of institution identified pursuant to CASS 10.2.1R(2).
- 10.1.13 G A *firm* may hold in electronic form any document in its *CASS resolution pack* provided that it continues to be able to comply with CASS 10.1.7R and CASS 10.1.11R in respect of that document.
- 10.1.14 R The individual to whom responsibility for CASS operational oversight has been allocated under CASS 1A.3.1R or, as the case may be CASS 1A.3.1AR, must report at least annually to the *firm's governing body* in respect of compliance with the *rules* in this chapter.
- 10.1.15 G Individuals allocated functions relating to CASS operational oversight pursuant to CASS 1A.3.1R or, as the case may be, CASS 1A3.1AR are reminded that their responsibilities include compliance with the provisions in this chapter.
- 10.1.16 R A *firm* must notify the *FSA* in writing immediately if it has not complied with, or is unable to comply with, CASS 10.1.3R.

10.2 Core content requirements

- 10.2.1 R A *firm* must include within its *CASS resolution pack*:
- (1) a master document containing information sufficient to retrieve each document in the *firm's CASS resolution pack*;
 - (2) a document which identifies the institutions the *firm* has appointed (including through an *appointed representative, tied agent, field representative* or other agent):
 - (a) in the case of *client money*, for the placement of *money* in accordance with *CASS 7.4.1R* or to hold or control *client money* in accordance with *CASS 7.5.2R*; and
 - (b) in the case of *safe custody assets*, for the deposit of those assets in accordance with *CASS 6.3.1R*;
 - (3) a document which identifies each *appointed representative, tied agent, field representative* or other agent of the *firm* which receives *client money* or *safe custody assets* in its capacity as the *firm's* agent;
 - (4) a document which identifies:
 - (a) each *senior manager* and *director* and any other individual and the nature of their responsibility within the *firm* who is critical or important to the performance of operational functions related to any of the obligations imposed on the *firm* by *CASS 6* or *CASS 7*; and
 - (b) the individual to whom responsibility for *CASS* operational oversight has been allocated under *CASS 1A.3.1R* or, as the case may be, to whom the *CASS operational oversight function* has been allocated under *CASS 1A.3.1AR*;
 - (5) for each institution identified in *CASS 10.2.1R(2)*, a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between that institution and the *firm* that relates to the holding of *client money* or *safe custody assets* including any written notification or trust acknowledgement letters sent or received pursuant to *CASS 7.8*;
 - (6) a document which:
 - (a) identifies each member of the *firm's group* involved in operational functions related to any obligations imposed on the *firm* under *CASS 6* or *CASS 7*, including in the case of a member that is a *nominee company*, identification as such; and

- (b) identifies each third party which the *firm* uses for the performance of operational functions related to any of the obligations imposed on the *firm* by CASS 6 or CASS 7; and
 - (c) for each *group* member identified in (a), the type of entity (such as branch, subsidiary and or *nominee company*) the *group* member is, its jurisdiction of incorporation if applicable, and a description of its related operational functions;
- (7) a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between the *firm* and each third party identified in (6)(b);
- (8) where the *firm* relies on a third party identified in (6)(b), a document which describes how to:
- (a) gain access to relevant information held by that third party; and
 - (b) effect a transfer of any of the *client money* or *safe custody assets* held by the *firm*, but controlled by that third party; and
- (9) a copy of the *firm's* manual in which are recorded its procedures for the management, recording and transfer of the *client money* and *safe custody assets* that it holds.
- 10.2.2 G For the purpose of CASS 10.2.1R(4), examples of individuals within the *firm* who are critical or important to the performance of operational functions include:
- (1) those necessary to carry out both internal and external *client money* and *safe custody asset* reconciliations; and
 - (2) those in charge of client documentation for business involving *client money* and *safe custody assets*.
- 10.2.3 R For the purpose of CASS 10.2.1R(2), a *firm* must ensure that the document records:
- (1) the full name of the individual institution in question;
 - (2) the postal and email address and telephone number of that institution; and
 - (3) the numbers of all accounts opened by that *firm* with that institution.

10.3 Existing records forming part of the CASS resolution pack

- 10.3.1 R A *firm* must include, as applicable, within its *CASS resolution pack* the records required under:
- (1) CASS 6.3.1R(4) (safe custody assets: appropriateness of the firm’s selection of a third party);
 - (2) CASS 6.4.3R (firm’s use of safe custody assets);
 - (3) CASS 6.5.1R (*safe custody assets* held for each client), including internal reconciliations carried out pursuant to CASS 6.5.2R as explained in the *guidance* at CASS 6.5.4G;
 - (4) CASS 6.5.2AR (client agreements: firm’s right to use);
 - (5) CASS 6.5.6R (Reconciliations with external records);
 - (6) CASS 7.4.10R (client money: appropriateness of the firm’s selection of a third party);
 - (7) CASS 7.6.1R (client money held for each client), including internal reconciliations carried out pursuant to CASS 7.6.2R as explained in the *guidance* at CASS 7.6.6G;
 - (8) CASS 7.6.7R and CASS 7.6.8R (method of internal reconciliation of *client money* balances);
 - (9) CASS 7.6.9R (Reconciliations with external records);
 - (10) COBS 3.8.2R(2)(a) and (c) (client categorisation); and
 - (11) COBS 8.1.4R (retail and professional client agreements).
- 10.3.2 G CASS 10.3.1R does not change the record keeping requirements of the *rules* referred to therein.

...

Schedule 1 Record keeping requirements

...

Sch 1.3G	Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
	...				
	CASS 8.1.5R	...			

<u>CASS 10.1.3R</u>	<u>A firm's CASS resolution pack</u>	<u>The documents to which CASS 10.2 and CASS 10.3 refer</u>	<u>From the date on which a firm becomes subject to CASS 10.1.3R</u>	<u>None is specified</u>
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...

Schedule 2 Notification requirements

...

Sch 2.1G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<u>CASS 7A.3.19R(2)</u>	...			
<u>CASS 10.1.16R</u>	<u>If a firm has not complied with, or is unable to comply with, CASS 10.1.3R</u>	<u>The fact of that firm's non-compliance or inability to comply with the rule in CASS 10.1.3R</u>	<u>Non-compliance or inability to comply with CASS 10.1.3R</u>	<u>Immediately (as per CASS 10.1.16R)</u>

PUB REF: 002922

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