CLIENT ASSETS SOURCEBOOK (FIRM CLASSIFICATION, OPERATIONAL OVERSIGHT, AND MANDATE RULES) 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 156 (General supplementary powers); and
(5)   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 as follows:

(1)   Annex A, Annex B, and Part 1 of Annex C of this instrument come into force on 1 January 2013; and
(2)   Part 2 of Annex C of this instrument comes into force on 28 February 2013.

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
Client Assets sourcebook (CASS)	Annex B
Supervision manual (SUP)	Annex C

Citation

E.   This instrument may be cited as the Client Assets Sourcebook (Firm Classification, Operational Oversight, and Mandate Rules) Instrument 2012.

By order of the Board
31 October 2012

Annex A

Amendments to the Glossary of definitions

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

mandate	any means that give a *firm* the ability to control a *client's* assets or liabilities, which meet the conditions in *CASS* 8.2.1R.

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.

1A   CASS firm classification and operational oversight

1A.1   Application

1A.1.1   R   (1)   Subject to (2) ~~and~~, (3) and (4), this chapter applies to a *firm* to which either or both of *CASS* 6 (Custody rules) and *CASS* 7 (Client money rules) applies.

                   …

             (4)   This chapter does not apply to a *firm* to which only *CASS* 6 applies, applied or is projected to apply, merely because it is, was, or is projected to be a *firm* which *arranges safeguarding and administration of assets*.

1A.2   CASS firm classification

1A.2.1   G   The application of certain *rules* in this chapter depends upon the 'CASS firm type' within which a *firm* falls. The 'CASS firm types' are defined in accordance with *CASS* 1A.2.7R. The 'CASS firm type' within which a *firm* falls is also used to determine whether it is required to have the *CASS operational oversight function* described in *CASS* 1A.3.1AR and whether the reporting obligations ~~that apply to it~~ in *SUP* 16.14 (Client money and asset return) apply to it.

1A.2.2   R   (1)   A *firm* must once every year, and ~~within the time limit provided for~~ by the time it is required to make a notification in accordance with *CASS* 1A.2.9R(4), determine whether it is a *CASS large firm*, *CASS medium firm* or a *CASS small firm* according to the amount of *client money* or *safe custody assets* which it holds, using the limits set out in the table in *CASS* 1A.2.7R.

                   …

…

1A.2.5   R   …

             (2)   The conditions to which (1) refers are that in either case:

                      (a)   the election is ~~made by including it in the notice~~ notified to

the *FSA* ~~provided under *CASS* 1A.2.8R or *CASS* 1A.2.9R~~ <u>in writing</u>;

   (b)   ~~it is given~~ <u>the notification in accordance with (a) is made</u> at least one week before the election is intended to take effect; and

   (c)   the *FSA* has not objected.

…

1A.2.8   R   ~~In relation to the calendar year ending on 31 December 2011, a *firm* must notify the *FSA* in writing:~~

   (1)   ~~by 31 January 2011 of the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year, if it held *client money* or *safe custody assets* in that previous year; or~~

   (2)   ~~by 31 January 2011 of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during 2011, if it did not hold *client money* or *safe custody assets* in the previous calendar year but at the date of its notification to the *FSA* projects that it will do so in 2011; or~~

   (3)   ~~in any other case, before the date on which the *firm* begins to hold *client money* or *safe custody assets*, of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the remainder of 2011; and~~

   (4)   ~~in every case, of its 'CASS firm type' classification.~~ <u>[deleted]</u>

1A.2.8A R ~~In addition, in relation to the calendar year ending on 31 December 2011, a *CASS small firm* must by 31 July 2011 notify the *FSA* in writing of:~~

   (1)   ~~the highest total amount of *client money* and the highest total value of *safe custody assets* held during the period between 1 January 2011 and 30 June 2011; or~~

   (2)   ~~if it did not hold *client money* or *safe custody assets* in that period, the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects, as at the date of its notification to the *FSA* under this *rule*, it will hold between 1 July 2011 and 31 December 2011.~~ <u>[deleted]</u>

1A.2.9   R   ~~In relation to each calendar year beginning with that which ends on 31 December 2012, a *firm* must notify the *FSA* in writing:~~ <u>Once every calendar year a *firm* must notify to the *FSA* in writing the information specified in (1), (2) or (3) as applicable, and the information specified in (4), in each case no later than the *day* specified in (1) to (4):</u>

(1) ~~within 15 *business days* of 31 December of the previous calendar year, of the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year, if it held *client money* or *safe custody assets* in that previous calendar year~~ if it held *client money* or *safe custody assets* in the previous calendar year, the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year, notification of which must be made no later than the fifteenth *business day* of January; or

(2) ~~within 15 *business days* of 31 December of the previous year, of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the then current calendar year, if it did not hold *client money* or *safe custody assets* in the previous calendar year but at the date of its notification to the *FSA* projects that it will do so in the then current calendar year~~ if it did not hold *client money* or *safe custody assets* in the previous calendar year but at any point up to the fifteenth *business day* of January the *firm* projects that it will do so in the current calendar year, the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the current calendar year, notification of which must be made no later than the fifteenth *business day* of January; or

(3) in any other case, ~~before the date on which the *firm* begins to hold *client money* or *safe custody assets*,~~ of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the remainder of the ~~then~~ current calendar year, notification of which must be made no later than the *business day* before the *firm* begins to hold *client money* or *safe custody assets*; and

(4) in every case, of its 'CASS firm type' classification, notification of which must be made at the same time the *firm* makes the notification under (1), (2) or (3).

1A.2.10   R   For the purpose of the annual notification to which ~~*CASS* 1A.2.8R and~~ *CASS* 1A.2.9R ~~refer~~ refers~~, and for the purpose of the notification to which *CASS* 1A.2.8AR refers~~, a *firm* must apply the calculation *rule* in *CASS* 1A.2.3R.

1A.2.11   G   For the purpose of *CASS* 1A.2.9R(1), the *FSA* will treat that obligation as satisfied if a *firm* ~~submits~~ submitted a *CMAR* for each period within the previous calendar year ~~the month ending 31 December~~ in compliance with *SUP* 16.14.3R.

1A.2.12   R   A *firm's* 'CASS firm type' and any change to it takes effect:

(1) if the *firm* notifies the *FSA* in accordance with *CASS* 1A.2.9R(1) or

CASS 1A.2.9R(2), on 1 February following the notification; or

(2)   if the *firm* notifies the *FSA* in accordance with *CASS* 1A.2.9R(3), on the *day* it begins to hold *client money* or *safe custody assets*; or

(3)   if the *firm* makes an election under *CASS* 1A.2.5R(1), and provided the conditions in *CASS* 1A.2.5R(2) are satisfied, on the *day* the notification made under *CASS* 1A.2.5R(2)(a) states that the election is intended to take effect.

1A.2.13   G   Any written notification made to the *FSA* under this chapter should be marked for the attention of: "Client Assets Firm Classification".

1A.3   Responsibility for CASS operational oversight

1A.3.1   R   A *CASS small firm* must allocate to a *director* performing a *significant influence function* or a *senior manager* performing a *significant influence function* responsibility for:

(1)   oversight of the *firm's* operational compliance with *CASS*; and

(2)   reporting to the *firm's governing body* in respect of that oversight.; and

(3)   ~~completing and submitting a *CMAR* to the *FSA* in accordance with *SUP* 16.14.~~

…

1A.3.1C   R   If, at the time a *firm* becomes a *CASS medium firm* or a *CASS large firm* in accordance with *CASS* 1A.2.12R(1) or *CASS* 1A.2.12R(2), the *firm* is not able to comply with *CASS* 1A.3.1AR because it has no *director* or *senior manager* who is an *approved person* in respect of the *CASS operational oversight function*, the *firm* must:

(1)   take the necessary steps to ensure that it complies with *CASS* 1A.3.1AR as soon as practicable, which must at least include submitting an application for a *candidate* in respect of the *CASS operational oversight function* within 30 *business days* of the *firm* becoming a *CASS medium firm* or a *CASS large firm*; and

(2)   until such time as it is able to comply with *CASS* 1A.3.1AR, allocate to a *director* performing a *significant influence function* or a *senior manager* performing a *significant influence function* responsibility for:

(a)   oversight of the *firm's* operational compliance with *CASS*;

(b)   reporting to the *firm's governing body* in respect of that oversight; and

(c)   completing and submitting the *CMAR* to the *FSA* in accordance with *SUP* 16.14.

…

1A.3.3   R   (1)   Subject to (2), a *firm* must make and retain an appropriate record of the *person* to whom responsibility is allocated in accordance with *CASS* 1A.3.1R, ~~or~~ *CASS* 1A.3.1AR or *CASS* 1A.3.1CR(2).

            …

8   Mandates

8.1   Application

8.1.1   R   This chapter (the *mandate rules*) applies to a *firm* ~~(including in its capacity as trustee under *CASS* 5.4) in respect of any written authority from a *client* under which the *firm* may control a *client's* assets or liabilities~~ when it has a *mandate* in the course of, or in connection with, the *firm's*:

            (1)   *designated investment business* (including *MiFID business*); ~~and~~ or

            (2)   *insurance mediation activity, except where it relates to a reinsurance contract.*

8.1.2   G   ~~Mandates or similar authorities for the purpose of this chapter include a *firm's* authority over a *client's* safe custody account, for example for stock lending purposes, a *firm's* authority over a *client's* bank or building society account including direct debits in favour of the *firm*, and a *firm* holding a *client's* credit card details.~~ [deleted]

8.1.2A   R   The *mandate rules* do not apply to a *firm*:

            (1)   in relation to *client money* that the *firm* is holding in accordance with *CASS* 5 or *CASS* 7 (including *client money* that the *firm* has allowed another *person* to hold or control in accordance with *CASS* 7.5.2R); or

            (2)   in relation to *safe custody assets* that the *firm* is holding, or in respect of which the *firm* is carrying on *safeguarding and administration of assets (without arranging)* in accordance with *CASS* 6; or

            (3)   in relation to a *client's* assets that the *firm* is holding or has received under an arrangement to which *CASS* 3 applies; or

            (4)   when it acts as the *operator* of a *regulated collective investment scheme* in relation to property held for or within the *scheme*.

8.1.2B   G   (1)   *CASS* 8.1.2AR is not an absolute exemption, but it excludes the application of the *mandate rules* in relation to *money* or assets that a

> *firm* has received, is holding, or is responsible for (as appropriate and in the circumstances described in *CASS* 8.1.2AR).

> (2) This means that, for example in respect of *CASS* 8.1.2AR(1), a *firm* holding *client money* in accordance with *CASS* 5 or *CASS* 7 does not also need to comply with the *mandate rules* in relation to the *client money* which it actually holds, but the *mandate rules* would apply if the *firm* has a *mandate* under which it can receive a *client's money* from another *person* in the course of, or in connection with, the activities set out at *CASS* 8.1.1R(1) and (2).

> (3) Similarly, in respect of *CASS* 8.1.2AR(4), the *mandate rules* apply to a *firm* that is the *operator* of a *regulated collective investment scheme* if, for example, it has a *mandate* under which it can receive a *client's money* from another *person* for the purposes of investing it in the *scheme*.

…

Purpose

8.1.4 G The *mandate rules* ~~apply to those *firms* that control, rather than hold, *clients'* assets or are able to create liabilities in the name of a *client*. These *rules* seek to ensure that~~ require *firms* to establish and maintain records and *internal controls* to prevent the misuse of a *mandate* ~~the authority granted by the client~~.

8.1.4A G The *mandate rules* only apply to a *firm* that has a *mandate*, and do not affect the duties of any other *person* to whom the *firm* is able to give the types of instructions referred to in *CASS* 8.2.1R(4). For example, if a *person* (A) has accepted a *deposit* from a *client*, and a *firm* (B) has a *mandate* in respect of that *client's deposit* held by A, the *mandate rules* only apply to B, and do not affect the duties of A in relation to the *deposit*.

~~General~~

8.1.5 R ~~A *firm* that holds authorities of the sort referred to in this chapter, must establish and maintain adequate records and *internal controls* in respect of its use of the mandates, which must include:~~

> (1) ~~an up-to-date list of the authorities and any conditions placed by the *client* or the *firm's* management on the use of them;~~

> (2) ~~a record of all transactions entered into using the authority and *internal controls* to ensure that they are within the scope of authority of the *person* and the *firm* entering into the transaction;~~

> (3) ~~the details of the procedures and authorities for the giving and receiving of instructions under the authority; and~~

> (4) ~~where the *firm* holds a passbook or similar documents belonging to the *client*, *internal controls* for the safeguarding (including against~~

~~loss, unauthorised destruction, theft, fraud or misuse) of any passbook or similar document belonging to the~~ *~~client~~* ~~held by the~~ *~~firm.~~* [deleted]

After CASS 8.1 insert the following new sections. The text is not underlined.

8.2   Definition of mandate

8.2.1   R   A *mandate* is any means that give a *firm* the ability to control a *client's* assets or liabilities, which meet the conditions in (1) to (5):

(1)   they are obtained by the *firm* from the *client*, and with the *client's* consent;

(2)   they are in written form at the time they are obtained from the *client*;

(3)   they are retained by the *firm*;

(4)   they put the *firm* in a position where it is able to give any or all of the types of instructions described in (a) to (d):

(a)   instructions to another *person* in relation to the *client's money* that is credited to an account maintained by that other *person* for the *client*;

(b)   instructions to another *person* in relation to any *money* to which the *client* has an entitlement, where that other *person* is responsible to the *client* for that entitlement (including where that other *person* is holding *client money* for the *client* in accordance with *CASS* 5 or *CASS* 7);

(c)   instructions to another *person* in relation to an asset of the *client*, where that other *person* is responsible to the *client* for holding that asset (including where that other *person* is *safeguarding and administering investments*);

(d)   instructions to another *person* such that the *client* incurs a debt or other liability to that other *person* or any other *person* (other than the *firm*); and

(5)   their circumstances are such that the *client's* further involvement would not be necessary for the *firm's* instructions described in 4(a) to 4(d) to be given effect.

Written form

8.2.2   G   A *mandate* can take any written form and need not state that it is a *mandate*. For example it could take the form of a standalone document containing certain information or conferring a certain authority on the *firm*, a specific provision within a document or agreement that also relates to other matters, or a combination of provisions within a number of documents which

together meet the conditions in *CASS* 8.2.1R.

Retention by the firm

8.2.3   G   (1)   If a *firm* receives information that puts it in the position described in *CASS* 8.2.1R(4) in order to effect transactions immediately on receiving that information, then such information could only amount to a *mandate* if the *firm* retains it (for example by not destroying the relevant document):

                (a)   after it uses it to effect those immediate transactions; or

                (b)   because those transactions are not, for whatever reason, effected immediately.

        (2)   If a *firm* receives information that puts it in the position described in *CASS* 8.2.1R(4) and the *firm* retains that information (for example in accordance with its record-keeping procedures or in order to effect transactions in the future or over a period of time) then such information could amount to a *mandate*.

Ability to give instructions to another person

8.2.4   G   The instructions referred to at *CASS* 8.2.1R(4) are all instructions given by a *firm* to another *person* who also has a relationship with the *firm's client*. For example, the other person may be the *client's bank*, intermediary, *custodian* or credit card provider. This means, for example, that any means by which a *firm* can control a *client's money* or assets for which it is itself responsible to the *client* (rather than any other *person*) would not amount to a *mandate*. This includes where the *firm* is holding a *client's money* or assets other than in accordance with *CASS* 5, *CASS* 6 or *CASS* 7 (for example, because of an exemption in those *rules*).

8.2.5   G   A *mandate* in relation to the type of instructions referred to in *CASS* 8.2.1R(4)(a) could include a direct debit instruction over a *client's* bank account in favour of the *firm*.

8.2.6   G   A *mandate* in relation to the type of instructions referred to in *CASS* 8.2.1R(4)(d) could include written information that sets out the *client's* credit card details.

Conditions on use of mandate and client's further involvement

8.2.7   G   (1)   If a *firm* obtains the means by which it can give the types of instructions referred to in *CASS* 8.2.1R(4), but its use of those means is subject to any limits or conditions, then this does not necessarily prevent those means from being a *mandate*. For example, a *client* might require that a *firm* uses a *mandate* only in connection with transactions up to a certain value.

        (2)   However, if a *firm* obtains the means by which it can give the types of instructions referred to in *CASS* 8.2.1R(4), but the *firm* cannot, in

practice, use those means without the *client's* further involvement, then the condition in *CASS* 8.2.1R(5) would not be met. For example, a *firm* might have the means by which it can give instructions of the type referred to in *CASS* 8.2.1R(4)(a) in relation to an account maintained by another *person* for a *client*, but that other *person* might require the *client's* signature or other authorisation before it gives effect to those instructions.

8.3 Records and internal controls

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

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

(1)   an up-to-date list of each *mandate* that the *firm* has obtained, including a record of any conditions placed by the *client* or the *firm's* management on the use of the *mandate*;

(2)   a record of each transaction entered into under each *mandate* that the *firm* has;

(3)   *internal controls* to ensure that each transaction entered into under each *mandate* that the *firm* has is in accordance with any conditions placed by the *client* or the *firm's* management on the use of the *mandate*;

(4)   the details of the procedures and *internal controls* around the giving of instructions under the *mandates* that the *firm* has (such instructions being those referred to in *CASS* 8.2.1R(4)); and

(5)   where the *firm* holds a passbook or similar documents belonging to the *client*, *internal controls* for the safeguarding (including against loss, unauthorised destruction, theft, fraud or misuse) of any passbook or similar document belonging to the *client* held by the *firm*.

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

(1)   The requirements in *CASS* 8.3.2R(1) and *CASS* 8.3.2R(3) apply only in respect of conditions placed around the *firm's* use of a *mandate* itself or around the instructions described in *CASS* 8.2.1G(4). Examples of these include conditions under which a *mandate* may only be used by the *firm* in connection with transactions up to a certain value, or under which instructions under a *mandate* may only be given by certain personnel within the *firm*.

(2)   The requirements in *CASS* 8.3.2R(1) and *CASS* 8.3.2R(3) do not apply in respect of criteria which relate to the nature and circumstances of transactions effected by a *firm* with or for a *client*. Examples of those criteria include investment restrictions or exposure limits for a managed portfolio, and required or preferred execution prices or execution venues.

Amend the following as shown.

9   Prime brokerage

…

9.3   Prime brokerage agreement disclosure annex

…

9.3.2   G   …

(2)   A *prime brokerage firm* should not enter into a "right to use arrangements" for a *client's safe custody assets* unless:

(a)   in the case of a *CASS small firm* or a *firm* to which *CASS* 1A.3.1CR applies, the person in that *firm* to whom the responsibilities set out in *CASS* 1A.3.1R or in *CASS* 1A.3.1CR(2) respectively have been allocated; or

…

are each satisfied that the *firm* has adequate systems and controls to discharge its obligations under *Principle* 10…

10   CASS resolution pack

10.1   Application, purpose and general provisions

…

10.1.14   R   The individual to whom responsibility for CASS operational oversight has been allocated under *CASS* 1A.3.1R, *CASS* 1A.3.1AR or, as the case may be, *CASS* ~~1A.3.1AR~~ 1A.3.1CR(2), 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, *CASS* 1A.3.1AR or, as the case may be, *CASS* ~~1A.3.1AR~~ 1A.3.1CR(2), are reminded that their responsibilities include compliance with the provisions in this chapter.

…

Sch 1   Record keeping requirements

…

Sch 1.3G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
CASS 1A.3.3R	Allocation of the *CASS* oversight responsibilities in *CASS* 1A.3.1 R ~~or~~, of the *CASS operational oversight function*, <u>or of the responsibilities in *CASS* 1A.3.1CR(2),</u> as relevant	The *person* to whom the *CASS* oversight responsibilities have been allocated, subject to the provisions of *CASS* 1A.3.3R, ~~or~~ to whom the *CASS operational oversight function* has been allocated in accordance with *CASS* 1A.3.1AR, <u>or to whom the responsibilities in *CASS* 1A.3.1CR(2) have been allocated</u>	Upon allocation	5 years (from the date the record was made)
…				
CASS ~~8.1.5R~~ <u>8.3.1R</u>	Adequate records and internal controls in respect of the *firm's* use of ~~mandates~~ <u>mandates</u> (see *CASS* ~~8.1.5R (1)~~ <u>8.3.2R(1)</u> to *CASS* ~~8.1.5R (4)~~ <u>8.3.2R(5)</u>)	Up to date list of *firm's* ~~authorities~~ <u>mandates</u> and any conditions regarding the use of ~~authorities~~ <u>mandates</u>, all transactions entered into, details of procedures and ~~authorities~~ <u>internal controls</u> for giving and receiving of instructions under ~~authorities~~	Maintain current full details	Not specified

		mandates, and important *client* documents held by the *firm*		
…				

Sch 2   Notification requirements

Sch 2.1G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
…				
CASS 1A.2.8R(1) - (3)	~~The highest total amount of *client money* and the highest total value of *safe custody assets* held by a *firm*, as more fully described in *CASS* 1A.2.8R~~	~~The highest total amount of *client money* and *safe custody assets* held by a *firm*, as more fully described in *CASS* 1A.2.8R.~~	~~The coming into force of *CASS* 1A.2.8R~~	~~31 January 2011 unless contrary provision is made in *CASS* 1A.2.8R.~~ [deleted]
CASS 1A.2.8R(4)	~~A *firm's* 'CASS firm type' classification~~	~~A *firm's* 'CASS firm type' classification~~	~~The coming into force of *CASS* 1A.2.8R~~	~~31 January 2011 unless contrary provision is made in *CASS* 1A.2.8R.~~ [deleted]
CASS 1A.2.8AR	~~The highest total amount of *client money* and the highest total value of *safe custody assets* held by a *CASS small firm*, as more fully described in *CASS* 1A.2.8AR~~	~~The highest total amount of *client money* and the highest total value of *safe custody assets* held by a *CASS small firm*, as more fully described in *CASS* 1A.2.8AR~~	~~The need to comply with *CASS* 1A.2.8AR~~	~~31 July 2011 unless contrary provision is made in *CASS* 1A.2.8AR~~ [deleted]

CASS 1A.2.9R(1) - (3)	The highest total amount of *client money* and the highest total value of *safe custody assets* held by a *firm*, as more fully described in *CASS* 1A.2.9R	The highest total amount of *client money* and *safe custody assets* held by a *firm*, as more fully described in *CASS* 1A.2.9R.	The need to comply with *CASS* 1A.2.9R(1) - (3)	~~Within 15 *business days* from the end of December of the previous calendar year~~ By the fifteenth *business day* of January unless contrary provision is made in *CASS* 1A.2.9R
CASS 1A.2.9R(4)	A *firm's* 'CASS firm type' classification	A *firm's* 'CASS firm type' classification	The need to comply with *CASS* 1A.2.9R(4)	~~Within 15 *business days* from the end of December of the previous calendar year unless contrary provision is made in *CASS* 1A.2.9R~~ At the same time the *firm* makes the notification under *CASS* 1A.2.9R(1), (2) or (3)
CASS 1A.3.2R	~~The *person* to whom the responsibilities in *CASS* 1A.3.1R have been allocated~~	~~The name of the *person*~~	~~Upon allocation~~	~~Until 31 January 2011~~ [deleted]
…				

Annex C

Amendments to the Supervision manual (SUP)

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

Part 1: Comes into force on 1 January 2013

16   Reporting requirements

…

16.14   Client money and asset return

…

Report

16.14.3   R   (1)   ~~A~~ Subject to (3), a *firm* must submit a completed *CMAR* to the *FSA* within 15 *business days* of the end of each month.

           (2)   In this *rule* month means a calendar month and *SUP* 16.3.13R(4) does not apply.

           (3)   A *firm* which changes its 'CASS firm type' and notifies the *FSA* that it is a *CASS medium firm* or a *CASS large firm* in accordance with *CASS* 1A.2.9R is not required to submit a *CMAR* in respect of the month in which the change to its 'CASS firm type' takes effect in accordance with *CASS* 1A.2.12R, unless it was a *firm* to which the requirement in (1) applied immediately prior to that change taking effect.

16.14.4   R   For the purposes of the *CMAR*:

           (1)   *client money* is that to which the *client money rules* in *CASS* 7 apply; and

           (2)   *safe custody assets* are those to which the *custody rules* in *CASS* 6 apply but only in relation to the holding of *financial instruments* (in the course of *MiFID business*) and the *safeguarding and administration of assets* (*without arranging*) (in the course of business that is not *MiFID business*).

16.14.5   G   For the avoidance of doubt, the effect of *SUP* 16.14.4R~~(1)~~ is that the following are ~~any *client money* held in accordance with CASS 5 is~~ to be excluded from any calculations which the *CMAR* requires:

           (1)   any *client money* held by the *firm* in accordance with *CASS* 5;

           (2)   any *safe custody assets* in respect of which the *firm* is merely

arranging safeguarding and administration of assets in accordance with *CASS* 6; and

(3) any *client money* or *safe custody assets* in respect of which the *firm* merely has a *mandate* in accordance with *CASS* 8.

…

Part 2: Comes into force on 28 February 2013

Delete 16 Annex 29R and insert the following new annex in its place. The text is not underlined.

16 Annex 29R   Client Money and Asset Return (CMAR)

This annex consists only of one or more forms. Forms are to be found through the following address:

Client Money and Asset Return - SUP 16 Annex 29R

see next page

Client Money & Asset Return

Section 1 - Firm Information

This section should be completed by all firms

		A
1	Name of CASS audit firm	
2	Name of CASS audit firm (if other was selected above)	
3	Did the firm hold client money during the reporting period?	
4	Did the firm safeguard and administer safe custody assets during the reporting period?	
5	Was the firm subject to the CFTC Part 30 Exemption Order during the reporting period?	

Alternative Approach

6	Did the firm operate the alternative approach during the reporting period? (CASS 7.4.14G - 7.4.16G)	
7	Has the alternative approach been signed off by the firm's auditors (as detailed in CASS 7.4.14G - 7.4.16G)?	

Overview of firm's activities subject to CASS
Please complete the table below with all business types undertaken for segregated clients

	A	B	C	D
	Type of business activity	Number of clients	Balance of client money	Value of safe custody assets as at reporting period end date
8				
		Total		

Section 2 - Balances

This section should be completed by all firms

		A
9	Highest client money balance held during the reporting period	
10	Lowest client money balance held during the reporting period	
11	Highest value of safe custody assets held during the reporting period	
12	Lowest value of safe custody assets held during the reporting period	

Section 3 - Segregation of client money

This section should only be completed if the answer to question 3A is "Yes"

	A	B	C	D	E
	Type	Institution where client money held	Client money balances	Country of incorporation of the institution	Is this a group entity
13					
		Total			

Section 4 - Client money requirement and resources

This section should only be completed if the answer to question 3A is "Yes"

		A
14	Client money requirement	

of which:

15	Unallocated to individual clients but identified as client money	
16	Unidentified client money in client bank accounts	
17	Uncleared payments e.g. unpresented cheques sent to clients	
18	Excess cash in segregated accounts	
19	Client money resource	
20	Surplus (+)/deficit (-) of client money resource against client mony requirement.	
21	Adjustments made to withdraw an excess or rectify a deficit identified as a result of an internal reconciliation	

Section 5 - Client money reconciliations

This section should only be completed if the answer to question 3A is "Yes"

		A Frequency
22	Client money internal reconciliation	
23	Client money external reconciliation	

		A	B	C	D
		6-29 days	30-59 days	60-90 days	90+ days
24	Client money unreconciled items				

Section 6 - Segregation of safe custody assets

This section should only be completed if the answer to question 4A is "Yes"

	A	G	B	C	D	E	F
	How registered?	Where held?	Name of institution where custody assets held	Number of lines of stock	Value of safe custody assets as at reporting period end date	Country of incorporation of the institution	Is this a group entity
25							
					Total		

Section 7 - Safe custody assets reconciliations

This section should only be completed if the answer to question 4A is "Yes"

	A	B	C
	30 days	60 days	90 days
26 Safe custody assets unreconciled items			

	A	B	C
	Method	Frequency	Type of safe custody asset
27			

Section 8 - Record Keeping & Breaches

Record Keeping

This section should only be completed if the answer to question 3A is "Yes"

	A	B	C	D	E	F
	Number of accounts held at beginning of reporting period	Number of new accounts opened during the reporting period	Number of accounts closed during the reporting period	Total number of accounts at the end of the reporting period	Number of trust status letters and/or acknowledgement letters in place that cover these accounts	Explanation of discrepancies
28 Client bank account						
29 Client transaction account						
30 Total						

Notifiable CASS Breaches

This section should be completed by all firms

A

31   Did the firm fail to comply with the requirements in any of CASS 6.5.1R, 6.5.2R, 6.5.6R and 6.5.10R?   [   ]

32   If yes, was a notification made to the FSA?   [   ]

33   Did the firm failed to comply with the requirements in any of CASS 7.6.1R, 7.6.2R, 7.6.9R, 7.6.13R to 7.6.15?   [   ]

34   If yes, was a notification made to the FSA?   [   ]

Section 9 - Outsourcing & Offshoring

This section should be completed by all firms

	A	B	C	D
	Who do you outource and/or offshore your client money and/or custody asset operations to? (name of entity)	What function of your CASS operations do you outsource and/or offshore?	Location of service provider	Significant changes being made or planned to existing arrangements
35				

Amend the following as shown.

16 Annex 29AG   Guidance notes for the data item in SUP 16 Annex 29R

Client Money and Asset Return (CMAR)

This annex contains *guidance* on the *CMAR* and is therefore addressed only to a *firm* which is subject to *SUP* 16.14.

General

Terms used in the *CMAR* bear the meaning ascribed to those terms in the *Glossary*, even though they do not appear in italicised form on the face of the *data item*, unless a contrary indication is given in this *guidance*.

A *firm* is reminded that the effect of *SUP* 16.14.4R is that in relation to a *firm* to which *CASS* 5 (Client money: insurance mediation activity) and *CASS* 7 (Client money rules) apply, that *firm* should not report in the *data item* shown in *SUP* 16 Annex 29R any *client money* that it holds in accordance with *CASS* 5.

SUP 16.14.4R also has the effect that the data reported by a *firm* on the *CMAR* should only relate to *client money* and/or *safe custody assets* held by the *firm*, and should not relate to *client money* and/or *safe custody assets* in respect of which the *firm* merely has a *mandate* or any *safe custody assets* in respect of which the *firm* merely *arranges safeguarding and administration of assets*.

Firms are reminded of their obligation to determine their 'CASS firm type' categorisation in accordance with *CASS* 1A.2.2R.

A *firm* should include in any amount of *client money* that it reports any *client money* which it has allowed another *person* to hold or control in accordance with *CASS* 7.5.2R (for example, an exchange, *clearing house* or *intermediate broker*).

<u>Reporting Period</u>

The reporting period for the *CMAR* is the calendar month for which a *CMAR* is required to be completed in accordance with *SUP* 16.14.3R, including the first *day* and the last *day* of that month. For example, the January reporting period will be January 1 to January 31, regardless of whether or not any *day* in January is a *business day*.

Valuation

~~Where this *data item* asks for a *firm* to report or calculate the value of *safe custody assets* that it holds on any given *day*, that *firm* should~~

(a)   ~~if it has the previous *day's* mark-to-market value of the *safe custody asset* in question, use that value; or~~

(b)   ~~if it does not have the previous *day's* mark-to-market value, calculate the value of that asset using the most recent mark-to-market value that it does have; and~~

~~in either case, apply a consistent mark-to-market methodology that reflects its normal accounting practice.~~

<u>For the purposes of the *CMAR*, the *FSA* does not prescribe any particular methodology or frequency for valuing *safe custody assets*.</u>

<u>Reporting Client Money Balances using internal reconciliations</u>

<u>The *guidance* in this annex assumes that a *firm* uses the *standard method of internal client money reconciliation*. *Firms* that use a different method of internal reconciliation in accordance with *CASS* 7.6.7R should read the *guidance* in this annex in so far as it is consistent with that different method.</u>

<u>Where this *data item* requires a *firm* to report any *client money* balances, unless otherwise specified the *firm* should report on the basis of balances used for its internal reconciliation carried out on the first *business day* following the reporting period in question. This means using the values contained in the *firm's* accounting records, for example its cash book, rather than values contained in statements received from its banks and other third parties.</u>

Currency

The reporting currency for this *data item* should be GBP (sterling). For the purpose of calculating the value of the total amounts of *client money* and *safe custody assets* that it holds on any given *day* during a reporting period, a *firm* should, in relation to *client money* or *safe custody assets* denominated in a currency other than sterling, translate the value of that *money* or that *safe custody asset* into sterling at the previous *day's* closing spot exchange rate.

Section 1   Firm information

1   Name of *CASS* audit firm

A *firm* should report the name of the auditor that provides its client assets report (see *SUP* 3.10). <u>It is not possible for the *CMAR* to list all auditors in this data field. However, certain auditors are named for convenience, and the *FSA* does not in any way recommend or endorse the auditors that are named.</u> ~~If the auditor is not listed on the menu, where available, a~~ <u>A</u> *firm* should ~~choose~~ <u>select</u> 'Other' <u>and complete data field 2 if its auditor is not named.</u>

2   Name of *CASS* audit firm (if 'Other' was selected above)

If a *firm* selects 'Other' in (1), it should enter the name of ~~its auditor~~ <u>the auditor that provides its client assets report (see *SUP* 3.10)</u>.

3   ~~Does~~ <u>Did</u> the *firm* hold *client money* <u>during the reporting period</u>?

A *firm* should state "Yes" or "No".

A *firm* should not take into account *client money* in respect of which it merely had a *mandate* in accordance with *CASS* 8 during the reporting period, or *client money* that it held in accordance with *CASS* 5 during the reporting period.

4 ~~Does~~ Did the *firm* safeguard and administer *safe custody assets* during the reporting period?

A *firm* should state "Yes" or "No".

A *firm* should not take into account *safe custody assets* in respect of which it was merely *arranging safeguarding and administration of assets* in accordance with *CASS* 6 during the reporting period.

5 ~~Is~~ Was the *firm* subject to a *CFTC Part 30 exemption order* during the reporting period?

A *firm* should state "Yes" or "No". *Handbook* provisions dealing with the *CFTC Part 30 exemption order* are set out *CASS* 7.4.32G to *CASS* 7.4.35R.

6 ~~Does~~ Did the *firm* operate the alternative approach during the reporting period (see *CASS* 7.4.14G to *CASS* 7.4.19G)?

A *firm* should state "Yes" or "No". *Handbook* provisions dealing with the alternative approach are set out in *CASS* 7.4.14G to *CASS* 7.4.19G.

7 Has the alternative approach been signed off by the *firm's* auditor?

A *firm* should state "Yes" or "No". *CASS* 7.4.15R provides that a *firm* that does not operate the normal approach must first send a written confirmation to the *FSA* from the *firm's* auditor that the *firm* has in place systems and controls which are adequate to enable it to operate another approach effectively.

8A Type of business activity

A *firm* should identify in this data field the investment activities or services in the course of which it holds *client money* or *safe custody assets* belonging to a *client* and may do so using its own description of the activity or service in question.

In completing this data field a *firm* should use a separate row to distinguish between each type of business activity or service to which *CASS* 6 or *CASS* 7 applies, in a way that the *firm* considers reasonably appropriate.

The rows do not necessarily need to distinguish between *regulated activities* or *client* categories, and could for example reflect the distinctions between business lines that a *firm* makes in its internal management reporting or published accounts, or the different business units within the *firm*.

Where possible a *firm* should also identify, as a separate single business activity, any allocated but unclaimed *client money* or *safe custody assets* held by the *firm* which the *firm* continues to treat as such. This would include, for example, *client money* balances or *safe custody assets* held in respect of *clients* whom the *firm* is no longer able to contact. The firm should only use one row in this data field for this purpose (so the amounts stated in that row would reflect the aggregate of allocated but unclaimed *client money* or *safe custody assets* across all its relevant business activities or services).

8B   Number of *clients*

In relation to each of the investment activities or services identified, a *firm* should report in this data field the number of *clients* for whom it holds *client money* or *safe custody assets* in respect of the activity or service in question.

If a *firm* holds *client money* or *safe custody assets* in respect of more than one activity or service for the same *client*, the *firm* should include this *client* in the number reported for each activity or service as appropriate. This means that the same *client* may be reported for more than one activity or service in this data field.

8C   Balance of *client money* ~~as at reporting period end date~~

In relation to each of the investment activities or services identified, a *firm* should report in this data field the total amount of *client money* that it ~~holds~~ held belonging to *clients* in respect of the activity or service in question.

A *firm* should report *client money* balances on the basis of balances used in the internal reconciliation that the *firm* carried out on the first *business day* following the reporting period in question.

Paragraph 8A describes how allocated but unclaimed *client money* should, where possible, be identified as a separate business activity in its own row (together with allocated but unclaimed *safe custody assets*). The balance shown in that row may also include any balance that is included in data field 17.

8D   Value of *safe custody assets* as at reporting period end date

In relation to each of the investment activities or services identified, a *firm* should report in this data field the total value of *safe custody assets* that it holds belonging to *clients* in respect of the activity or service in question, as at the last *business day* of the reporting period.

Paragraph 8A describes how allocated but unclaimed *safe custody assets* should, where possible, be identified as a separate business activity in its own row (together with allocated but unclaimed *client money*).

Section 2   Balances

9   Highest *client money* balance held during the reporting period

A *firm* should report the highest total amount of *client money* that it held at any point during the reporting period.

10   Lowest *client money* balance <u>held</u> during the reporting period

A *firm* should report the lowest total amount of *client money* that it held at any point during the reporting period.

11   Highest value of *safe custody assets* held during the reporting period

A *firm* should report the highest total value of *safe custody assets* that it held at any point during the reporting period.

12   Lowest value of *safe custody assets* held during the reporting period

A *firm* should report the lowest total value of *safe custody assets* that it held at any point during the reporting period.

In relation to data fields 9 to 12, a *firm* should ensure that it includes in the amount or value reported any *client money* or *safe custody assets* that <u>it is holding or in respect of which it is</u> *<u>safeguarding and administering investments</u>*<u>, which</u> has or have been placed with a ~~sub-custodian~~ <u>third party</u> *<u>custodian</u>*, either by a ~~custodian~~ *<u>custodian</u>* with which that *firm* has deposited that *money* or those assets, or by that *firm* if it is a ~~custodian~~ *<u>custodian</u>*.

In relation to data fields 9 to 12, a *firm* should determine the lowest and highest figures by reference to the data that it has recorded from internal reconciliations ~~over~~ <u>that relate to</u> the reporting period in question.

~~Other than in relation to a *CMAR* submitted in January and in circumstances in which a~~ ~~CMAR has been submitted on time in each of the preceding eleven months, submission of a~~ ~~CMAR will not have an effect on a *firm's* categorisation as either a *CASS large firm* or as a~~ ~~CASS medium firm. As *CASS* 1A.2.2R indicates, a *firm's* obligation to determine its~~ ~~categorisation arises once each year in January of the year in question.~~

Section 3   Segregation of client money

13A   Type

A *firm* should identify the types of institution with which it has placed *client money*. *CASS* 7.4.1R identifies the type of institution with which a *firm* must promptly place into one or more accounts *client money* that it receives. *CASS* 7.5.2R identifies a limited number of circumstances in which a *firm* may allow another *person*, such as an exchange, a *clearing house* or an *intermediate broker*, to hold or control *client money*.

13B   Institution where *client money* held

A *firm* should report the full name <u>and *FSA* firm reference number (if applicable)</u> of the individual legal entity with which it has placed *client money*.

13C   *Client money* balances

A *firm* should report the total amount of *client money* which it has placed with each institution identified in 13B.

A *firm* should report *client money* balances on the basis of balances used in the internal reconciliation that the *firm* carried out on the first *business day* following the reporting period in question.

A *firm* should include in the *client money* balance the aggregate balance of any allocated but unclaimed *money* which a *firm* continues to treat as *client money*. For example, *client money* balances held in respect of *clients* whom the *firm* is no longer able to contact.

The balance shown in that row may also include any balance that is included in data field 17.

13D   Country of incorporation of the institution

A *firm* should report the name of the country in which each institution with which it places *client money* is incorporated using the appropriate two letter ISO code.

13E   Group entity

A *firm* should indicate in this data field whether each institution with which it has placed *client money* is or is not a relevant group entity within the meaning of *CASS* 7.4.9BR. A *firm* should note that the definition in *CASS* 7.4.9BR is specific to *CASS* and the entities which comprise it may not be the same as those which comprise the *firm's group*.

Section 4   Client money requirement and resource

14   *Client money* requirement

In relation to a *firm* that follows the *standard method of internal client money reconciliation*, that *firm* should report its *client money* requirement, calculated in accordance with *CASS* 7 Annex 1G paragraph 6.

A *firm* should report its *client money* requirement on the basis of the internal reconciliation that the *firm* carried out on the first *business day* following the reporting period in question.

Included A *firm* should include in the *client money* requirement is the aggregate balance of any allocated but unclaimed *money* which a *firm* continues to treat as *client money*;. for For example, *client money* balances held in respect of *clients* whom the *firm* is no longer able to contact.

The balance reported for the *client money* requirement should be inclusive of the balances that a *firm* is also reporting for data fields 15-18.

15 Unallocated to individual *clients* but identified as *client money*

A *firm* should report the amount of unallocated *client money* that it holds. Examples of this might include a *client* entitlement as described in *CASS* 7.4.27G or *money* received into a *client bank account* that has not yet been allocated to an individual *client.* A *firm* may be unable to allocate *client money* to an individual *client* on initial receipt of that *money* because of differences in trading hours, late journal adjustments or a failure by a third party to mark *money* (such as a dividend payment) that it sends to the *firm* as being for the account of the *client* in question.

16 Unidentified *client money* in *client* ~~money~~ *bank accounts*

A *firm* should report the amount of *money* ~~other than *client money*~~ that is held in that *firm's client bank accounts* and *client transaction accounts* which is the subject of enquiry by that *firm* to determine whether that *money* is *client money*.

17 Uncleared payments e.g. unpresented cheques sent to *clients*

A *firm* should report the amount of *client money* it holds in respect of ~~accounted for by as yet~~ uncleared payments to ~~that~~ the *firm's clients* drawn on a *client bank account* of the *firm*. In this data field a *firm* should therefore include any uncleared cheques and other payable orders of any age, including electronic bank payments, in favour of a *client* but which have not been paid by the bank.

18 Excess cash in segregated accounts

~~In relation to a *firm* that follows the *standard method of internal client money reconciliation*, that~~ A *firm* should report the amount of *client money* that it holds in *client bank accounts* and *client transaction accounts* which ~~exceeds the amount reported in data field 14~~ the *firm* included in its *client money* requirement as a result of the *firm's* application of *CASS* 7.4.21R. ~~*CASS* 7.4.21R explains when such an excess might arise.~~ A *firm* should not include balances for this data field that it is reporting in data fields 15-17.

19 *Client money* resource

~~In relation to a *firm* that follows the *standard method of internal client money reconciliation*, that *firm* should report the amount of its *client money* resource, as defined in *CASS* 7 Annex 1G paragraph 1 in respect of a *firm* that adopts the normal approach and as defined in paragraph 2 of that annex in respect of a *firm* that adopts the alternative approach.~~

A *firm* should report its *client money* resource on the basis of the *client money* resource used in the internal reconciliation that the *firm* carried out on the first *business day* following the reporting period in question (which should be the same

internal reconciliation used by the *firm* to report its *client money* requirement in data field 14).

A *firm* should include in the *client money* resource the aggregate balance of any allocated but unclaimed *money* which a *firm* continues to treat as *client money*. For example, *client money* balances held in respect of *clients* whom the *firm* is no longer able to contact.

20   Surplus (+)/ deficit (-) of *client money* resource against *client money* requirement

A *firm* should report in this data field the amount by which its *client money* resource exceeds its *client money* requirement (to be reported in the *data item* as a positive amount), or as the case may be, the amount by which its *client money* requirement exceeds its *client money* resource (to be reported in the *data item* as a negative amount).

Where a surplus or deficit does not exist following a *firm's* internal *client money* reconciliation, the *firm* should report '0' for this data field.

21   Adjustments made to withdraw an excess or rectify a deficit identified as a result of an internal reconciliation.

~~In relation to a *firm* whose *client money* resource and *client money* requirement were shown in the penultimate internal reconciliation carried out in the reporting period to be unequal, that~~ A *firm* should report the amount of *money* that it added to correct a *shortfall* or, as the case may be, that it withdrew reflecting ~~an excess~~ a surplus.

In relation to data fields 14 to ~~20~~ 21, a *firm* should report by reference to the results of its internal reconciliation carried out on ~~the reporting period end date, or if that date is not a *business day*, by reference to those carried out on the *business day* nearest to the reporting period end date~~ the first *business day* following the reporting period in question.

Data fields 15-18 relate to *client money* balances identified in a *firm's* accounting records, for example its cash book, that form part of the *client money* requirement reported in data field 14. Data fields 15-18 will not equal the *client money* requirement reported in data field 14 unless the balances reported for data fields 15-18 include all balances that are allocated to individual *clients*.

Section 5   Client money reconciliations

22   *Client money* internal reconciliation

A *firm* should identify in this data field the frequency with which it performs internal reconciliations.

23   *Client money* external reconciliation

A *firm* should identify in this data field the frequency with which it performs external reconciliations.

24   *Client money* unreconciled items

A *firm* should identify in this data field the number of unreconciled *client money* items and allocate each item to one of the specified time bands according to the length of time for which it has remained unreconciled.

For the purposes of this data field, the number of unreconciled *client money* items refers to the number of individual discrepancies/breaks identified as part of a *firm's* internal and external reconciliations which have remained unresolved for period of 6 calendar *days* or more. For the purposes of this data field unreconciled items should include any unresolved differences that have not yet been allocated to individual *client*s and any unidentified *client money* balances, but should not include items that were in fact reconciled by taking into account timing differences between a *firm's* own accounting records (e.g. cash book entries) and *client bank account* statements.

~~For the purpose of this data field, a *firm* should calculate the number of calendar *days* between the date on which an internal reconciliation in respect of that item should have been carried out, but was not, and the reporting date.~~

A *firm* should also report the balances of these individual unreconciled items as appropriate in data fields 15 and 16.

Section 6   Segregation of safe custody assets

In order to complete this section a *firm* will need to group the *safe custody assets* it held at the reporting period end date by the method of registration used (25A), the means by which the assets were held (25G) and the name of the institution with which the assets were deposited (25B). Each group of *safe custody assets* so identified should be reported as a separate row.

25A   ~~Where and how held~~ How registered

~~A *firm* should identify in this data field at least those:~~

~~(a)   *safe custody assets* which it holds in its physical possession;~~

~~(b)   *safe custody assets* the legal title to which is registered and recorded in the name of a *nominee company*;~~

~~(c)   *safe custody assets* which it has deposited with a third party custodian;~~

~~(d)   *safe custody assets* which, if the *firm* is a custodian, it has deposited with a sub-custodian;~~

~~(e)   *safe custody assets* which it has deposited with any other third party.~~

~~In relation to any asset which falls into more than one of the available categories in 25A, a~~ *firm* ~~should report its holding of that asset in each of the available categories. However, for validation purposes, a~~ *firm* ~~should enter the 25D positive value of that asset in one only of those categories and enter a value of zero in each of the other available categories. A~~ *firm* ~~may choose in which of the available categories it reports the 25D positive value of that asset.~~

For each group of *safe custody assets* that a *firm* (in carrying on the *regulated activity* of *safeguarding and administering investments*) held at the reporting period end date, the *firm* should identify the method of registration it used in accordance with *CASS* 6.2.3R, by specifying one of the following categories of *person* in whose name legal title to the *safe custody assets* were registered during the reporting period:

(a)   the *client*;
(b)   the *firm*;
(c)   a third party;
(d)   a *nominee company* which is controlled by the *firm*;
(e)   a *nominee company* which is controlled by an *affiliated company*;
(f)   a *nominee company* which is controlled by an investment exchange;
(g)   a *nominee company* which is controlled by a third party with whom *financial instruments* are deposited under *CASS* 6.3 (Depositing assets and arranging for assets to be deposited with third parties).

*Firm*s that registered the legal title to *safe custody assets* in joint names should select option (a) if one of those names is the *client's* name. If none of those names are the *client's* name then the *firm* should select an option that corresponds to any one of those named *persons*.

In relation to *safe custody assets* that a *firm* held in its physical possession and for which the *firm* did not register legal title (for example bearer notes), the *firm* should select option (b).

25B   Name of institution where held

For each group of *safe custody assets* that a *firm* (in carrying on the *regulated activity* of *safeguarding and administering investments*) held at the reporting period end date, the ~~A~~ *firm* should report, as relevant, ~~the identity of the~~ *~~nominee company~~* ~~to which is registered and recorded the legal title to the~~ *~~safe custody assets~~* ~~in question, or~~ the identity of the third party institution with which it ~~has~~ deposited the *safe custody assets*. In relation to any non-dematerialised *safe custody assets* which it ~~holds~~ held in its physical possession, a *firm* should enter its own name in the data field.

In identifying any *~~nominee company~~* ~~or~~ third party institution in this data field, a *firm* should ensure that it specifies the full name or the *FSA* firm reference number (if applicable) of the individual legal entity with which the *safe custody assets* ~~have been~~ were deposited.

In relation to any dematerialised *safe custody assets* which a *firm* held as the sole *custodian* the *firm* should report the name of the central securities depositary where

the *safe custody assets* were deposited, for example CREST, Euroclear, etc. and should select 'deposited with any other third party' when completing data field 25G.

25C   Number of lines of stock

In relation to each ~~nominee company or third party institution identified in 25B~~ combination of registration and holding method identified in 25A and 25G, a *firm* should report the total number of lines of stock being *safe custody assets* that the *firm* held at the reporting period end date ~~to which in the case of a *nominee company* legal title has been registered and recorded in its name and in any other case which it has deposited with a third party institution~~. As a *firm* is only being asked to enter the total number of lines of stock in relation to each identified institution, it is not expected to identify separately *safe custody assets* belonging to an individual *client*.

For the purpose of this data field, a *firm* should treat each stock which bears its own CUSIP or ISIN number as a separate line of stock.

25D   Value of *safe custody assets* as at reporting period end date

As at the reporting period end date, a *firm* should calculate the total value of the *safe custody assets* ~~held by each institution identified in 25B~~ reported on each row and enter that value in the data field. ~~In completing 25D a *firm* should have regard to the *guidance* given in relation to 25A.~~

25E   Country of incorporation of the institution

In relation to each institution identified in 25B, a *firm* should report the name of the country in which that institution is incorporated using the appropriate two letter ISO code.

25F   Group entity

A *firm* should indicate in this data field whether each institution with which it ~~has~~ placed *safe custody assets* is or is not a member of that *firm's group*.

25G   Where held

For each group of *safe custody assets* that a *firm* (in carrying on the *regulated activity* of *safeguarding and administering investments*) held at the reporting period end date, the *firm* should identify in this data field whether the *safe custody assets* were:

(a)   held in the *firm's* physical possession (for example any non-dematerialised assets such as bearer notes);
(b)   deposited with a third party *custodian* (this may include any third party that has responsibility to the *firm* for the *safe custody assets*, such as a sub-custodian or a fund manager);
(c)   deposited with a third party exchange;
(d)   deposited with a third party *clearing house*;
(e)   deposited with a third party intermediary; or

(f)   deposited with any other third party (where none of the above options adequately describe how the *safe custody assets* are held).

In relation to any dematerialised *safe custody assets* which a *firm* held as the sole *custodian* the *firm* should select option (f) and report the name of the central securities depositary where the *safe custody assets* were deposited, for example CREST, Euroclear, etc. when completing data field 25B.

Section 7   **Safe Custody Assets Reconciliations**

26   *Safe custody assets* unreconciled items

A *firm* should identify in this data field the number of unreconciled *safe custody assets* items and allocate each item to one of the specified time bands according to the length of time for which it has remained unreconciled.

~~For the purpose of this data field, a *firm* should calculate the number of calendar *days* between the date on which an internal reconciliation in respect of that item should have been carried out, but was not, and the reporting date.~~

<u>For the purposes of this data field, the number of unreconciled *safe custody assets* items refers to the number of individual discrepancies/custody breaks identified as part of a *firm's* external reconciliation which have remained unresolved for a specific period of time.</u>

In relation to the 30-day field, a *firm* should report items which have remained unreconciled for ~~no more than 30 *days*~~ <u>at least 30 *days* but no more than 59 *days*</u>.

In relation to the 60-day field, a *firm* should report items which have remained unreconciled for at least ~~31~~ <u>60</u> *days*, but no more than ~~60~~ <u>89</u> *days*.

~~In relation to the 90-day field, a *firm* should report:~~

~~(a)   items which have remained unreconciled for at least 61 *days*, but no more than 90 *days*; and~~

~~(b)   items which have remained unreconciled for 91 *days* or more.~~

<u>In relation to the 90-day field, a *firm* should report items which have remained unreconciled for at least 90 *days*.</u>

27A   Method

In relation to each type of *safe custody asset* identified in 27C, a *firm* should report the method of internal reconciliation that it ~~applies~~ <u>applied</u> to that type of asset. *CASS* 6.5.2R to *CASS* 6.5.5R set out *rules* and *guidance* in relation to internal reconciliation methods.

27B   Frequency

In relation to each method identified in 27A, a *firm* should report the frequency with which it ~~conducts~~ <u>conducted</u> internal reconciliations using that method.

27C   Type of *safe custody asset*

A *firm* should report the different types of *safe custody asset* that it ~~holds~~ <u>held</u> and may do so using its own description of an asset type.

Section 8   Record keeping and breaches

28   *Client bank account*

        Client bank account has the same meaning as in the *Glossary* in the context of *CASS* 7 and *CASS* 7A.

28F   Explanation of discrepancies

        A *firm* should provide a brief explanation for any difference between the number of *client bank accounts* reported for 28D and the number of trust/acknowledgement letters to cover these accounts reported for 28E (see *CASS* 7.8.1R).

29   *Client transaction account*

        Client transaction account has the same meaning as in the *Glossary*.

29F   Explanation of discrepancies

        A *firm* should provide a brief explanation where there is a difference between the number of *client transaction accounts* reported for 29D and the number of trust/acknowledgement letters to cover these accounts reported for 29E (see *CASS* 7.8.2R).

31   ~~Has the *firm* complied with the requirements in~~ Did the *firm* fail to comply with any of the requirements set out in *CASS* 6.5.1R, *CASS* 6.5.2R~~,~~ ~~and~~ *CASS* 6.5.6R and *CASS* 6.5.10R?

        A *firm* should indicate whether, at any point during the reporting period, it ~~has complied in all material respects~~ failed to comply with any of the requirements set out in *CASS* 6.5.1R, *CASS* 6.5.2R and *CASS* 6.5.6R.

        If a *firm*, having carried out a reconciliation during the reporting period, failed to comply with *CASS* 6.5.10R, it should also record that fact in this data field.

        CASS 6.5.10R provides that a *firm* must promptly correct any discrepancies which are revealed in the reconciliations envisaged by *CASS* 6.5 and make good, or provide the equivalent of, any unreconciled *shortfall* for which there are reasonable grounds for concluding that the *firm* is responsible.

32   ~~Following reconciliation, is the *firm* unable, in any material respect, to comply with *CASS* 6.5.10R?~~ If yes, was a notification made to the *FSA*?

        ~~If a *firm*, having carried out a reconciliation, has not complied with or is unable in any material respect to comply with *CASS* 6.5.10R, it should record that fact in this data~~

field. ~~CASS 6.5.10R provides that a~~ *~~firm~~* ~~must promptly correct any discrepancies which are revealed in the reconciliations envisaged by~~ *~~CASS~~* ~~6.5, and make good, or provide the equivalent of, any unreconciled~~ *~~shortfall~~* ~~for which there are reasonable grounds for concluding that the~~ *~~firm~~* ~~is responsible.~~

If in data field 31 the *firm* has acknowledged a failure to comply with any of the specified *rules*, it should confirm in this data field whether a notification was made to the *FSA* in accordance with *CASS* 6.5.13R.

Where the *firm's* response to data field 31 relates to multiple instances of non-compliance, it should only answer "Yes" in this data field if all instances were notified.

33   ~~Has the~~ *~~firm~~* ~~complied with the requirements in~~ Did the *firm* fail to comply with any of the requirements set out in *CASS* 7.6.1R, *CASS* 7.6.2R, ~~and~~ *CASS* 7.6.9R and *CASS* 7.6.13R to *CASS* 7.6.15R?

A *firm* should indicate whether, at any point during the reporting period it ~~has complied in all material respects~~ failed to comply with any of the requirements set out in *CASS* 7.6.1R, *CASS* 7.6.2R and *CASS* 7.6.9R.

If a *firm*, having carried out a reconciliation during the reporting period, failed to comply with one or more of the obligations found in *CASS* 7.6.13R to *CASS* 7.6.15R, it should also record that fact in this data field.

CASS 7.6.13R to *CASS* 7.6.15R set out requirements which apply to a *firm* in relation to internal and external reconciliation discrepancies.

34   ~~Following reconciliation, is the~~ *~~firm~~* ~~unable, in any material respect, to comply with~~ *~~CASS~~* ~~7.6.13R to~~ *~~CASS~~* ~~7.6.15R~~ If yes, was a notification made to the *FSA*?

~~If a~~ *~~firm~~*~~, having carried out a reconciliation, has not complied with or is unable to comply with one or more of the obligations found in~~ *~~CASS~~* ~~7.6.13R to~~ *~~CASS~~* ~~7.6.15R, it should record that fact in this data field.~~ *~~CASS~~* ~~7.6.13R to~~ *~~CASS~~* ~~7.6.15R set out requirements which apply to a~~ *~~firm~~* ~~in relation to internal and external reconciliation discrepancies.~~

If in data field 33 the *firm* has acknowledged a failure to comply with any of the specified *rules*, it should confirm in this data field whether a notification was made to the *FSA* in accordance with *CASS* 7.6.16R.

Where the *firm's* response to data field 33 covers multiple instances of non-compliance, it should only answer "Yes" in this data field if all instances were notified.

In relation to data fields 31 and 33, a *firm* should ~~only report in the affirmative~~ answer "Yes" if it ~~has been in compliance with~~ failed to comply with any of the *rules* specified in those data fields at ~~all times throughout~~ any point during the reporting period in question, whether or not it is in compliance at the end of the reporting period.

A *firm's* responses to data fields 31 and 33 should only relate to breaches that occurred within the particular reporting period in question and not to any breach that may have occurred in a previous reporting period, even if the breach remains unresolved.

A *firm* should answer "N/A" as appropriate to data fields 31 and 33 if it did not hold *client money* or *safe custody assets* during the reporting period.

In relation to data fields 32 and 34, a *firm* should ~~report the fact of its non-compliance if it has any time during the reporting period failed to comply with the specified~~ *rules* ~~in the way envisaged by~~ *CASS* ~~6.5.13R(2) and~~ *CASS* ~~7.6.16R(2), whether or not it is in compliance at the period end date~~ only answer "Yes" if the *firm* has acknowledged any breaches in data fields 31 or 33, and all such breaches were notified as required within the reporting period in question.

CASS 6.5.13R and *CASS* 7.6.16R require that the *FSA* be informed without delay of any of the matters in respect of which notification is required by those *rules*. Submission of the *CMAR* within the time limit specified in *SUP* 16.14.3R does not discharge the obligations in those *rules* and a *firm* remains obliged to notify the *FSA* as soon as it becomes aware that any of the circumstances described in those *rules* has arisen.

A *firm* should answer 'N/A' for data fields 32 and 34 if the *firm* has answered either 'No' or 'N/A' for data fields 31 and 33 respectively.

Section 9   Outsourcing and offshoring

In relation to its business that is subject to *CASS*, a *firm* should report in data field 35 outsourcing and offshoring arrangements that it has established which it judges to be material to that business, either by reason of their scale or their importance.

For the purposes of data fields 35A to 35D, 'outsourcing' refers to where a *firm* outsources part of its *client money* and/or *custody asset* operations to a third party and 'offshoring' refers to where a *firm's client money* and/or custody asset operations are managed through a *branch* established by it outside the *United Kingdom*.

35A   Who do you outsource or offshore your *client money* and/or *custody asset* operations to?

A *firm* should state either:

(a)   the full name of the legal entity that business has been outsourced to; or

(b)   if the business is offshored, the name of the *firm* itself.

An *FSA* firm reference number should also be provided for any *firm* which is authorised by or registered with the *FSA*.

Validation

Validation number	Data element	Sign	Formula
1	8B	=>	0 (NIL)
2	8C(total)	=	8CT=∑8C
3	8C (total)	=	8CT=13CT
4	8D (total)	=	8DT=∑8D
5	8D (total)	=	8DT=25DT
6	10A	<=	9A
7	12A	<=	11A
8	13C(total)	=	13CT=∑13C
9	20A	=	19A-14A
10	25D(total)	=	25DT=∑25D
11	28D	=	28A+28B-28C
12	29D	=	29A+29B-29C
13	30D(total)	=	30DT=28D+29D