

**CLIENT ASSETS SOURCEBOOK (AMENDMENT NO 7) INSTRUMENT 2014****Powers exercised**

- A. The Financial Conduct 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 137A (The FCA’s general rules);
  - (2) section 137B (FCA general rules: clients’ money, right to rescind etc);
  - (3) section 137T (General supplementary powers); and
  - (4) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 April 2015.

**Amendments to the FCA Handbook**

- D. The modules of the FCA’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 (Amendment No 7) Instrument 2014.

By order of the Board of the Financial Conduct Authority  
11 December 2014

## 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.

*excluded custody activities*                      any activities of a *firm* which:

(a)            are carried on in connection with, or for the purposes of, managing a *UCITS* or an *AIF* (as the case may be); and

(b)            would amount to *safeguarding and administering investments* but for the exclusion in article 72AA of the *RAO*.

Amend the following definition as shown.

*safe custody asset*                      ...

(b)            in relation to *safeguarding and administering investments* that is not *MiFID business* and/or *acting as trustee or depositary of a UCITS*, a *safe custody investment*; ~~or~~

(c)            when *acting as trustee or depositary of an AIF*, an *AIF custodial asset*; or

(d)            in relation to *excluded custody activities* carried on by a *small AIFM*, a *safe custody investment*.

## Annex B

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

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

#### 1A CASS firm classification and operational oversight

##### 1A.1 Application

1A.1.1 R ...

(4) This chapter does not apply to a *firm* to which only CASS 6 applies, applied or is projected to apply, merely because:

(a) it is, was or is projected to be a *firm* which *arranges safeguarding and administration of assets*; or

(b) when acting as a *small AIFM* and in relation to *excluded custody activities*, it would be, would have been or would be projected to be a *firm* which *arranges safeguarding and administration of assets* but for the exclusion in article 72AA of the *RAO*.

...

#### 6 Custody rules

##### 6.1 Application

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

...

(1E) in respect of any arrangement for a *client* to transfer full ownership of a *safe custody asset* to the *firm* which is:

...

but the application of the *custody rules* to a *firm* under this paragraph is limited to the *rules* and *guidance* in CASS 6.1.6R to CASS 6.1.9G; and

(1F) when it is a *small AIFM* carrying on *excluded custody activities*.

6.1.1-A R In applying the *custody rules* to a *small AIFM*'s *excluded custody activities*, any reference to a *firm* carrying on the *regulated activities of safeguarding and administering investments, safeguarding and administering assets* (*without arranging*) or *arranging safeguarding and administration of assets*

includes those *excluded custody activities* that would, but for the exclusion in article 72AA of the *RAO*, amount to whichever of those *regulated activities* is referred to.

...

- 6.1.1B R (1) *Firms to which the custody rules apply by virtue of CASS 6.1.1R(1B), ~~(1C)~~ or (1D) or (1E)* must also apply the *custody rules* to those *custody assets* which are not *safe custody investments* in a manner appropriate to the nature and value of those *custody assets*.
- (2) *Firms to which the custody rules apply by virtue of CASS 6.1.1R(1C) must also apply the custody rules:*
- (a) *to those custody assets which are not AIF custodial assets but are safe custody investments; and*
  - (b) *in a manner appropriate to the nature and value of those custody assets, to those custody assets which are neither AIF custodial assets nor safe custody investments.*

...

- 6.1.16BA G (1) The *custody rules* do not apply to a *firm* that is *managing an AIF* or *managing a UCITS* in relation to ~~activities which are carried on by that firm in connection with, or for the purposes of, managing the AIF or UCITS~~ *excluded custody activities*, except where the *firm* is a *small AIFM*.
- (2) *The custody rules can apply to a firm that is managing an AIF or managing a UCITS in relation to activities that are not excluded custody activities. For example, where the firm:*
- (a) *holds financial instruments belonging to a client in the course of its MiFID business (see CASS 6.1.1R(1A)); or*
  - (b) *is safeguarding and administering investments, in the course of business that is not MiFID business (see CASS 6.1.1R(1B)).*

...

- 6.1.16IA R ...
- (2) When a *firm* is *acting as trustee or depositary of an AIF* that is an *authorised AIF* the *firm* must, in addition to the *custody rules* in (1), also comply with the *custody rules* in the table below:

Reference	Rule
CASS 6.1.1BR(2)	...
...	...

...

## 8 Mandates

### 8.1 Application

...

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

...

(2) in relation to ~~safe custody assets~~ custody assets that the *firm* is holding, or in respect of which the *firm* is *carrying on safeguarding and administration of assets (without arranging), acting as trustee or depositary of an AIF or acting as trustee or depositary of a UCITS* in accordance with CASS 6; or

(2A) in relation to custody assets for which a small AIFM is:

(a) carrying on those excluded custody activities that would amount to safeguarding and administration of assets (without arranging) but for the exclusion in article 72AA of the RAO; and

(b) is doing so in accordance with CASS 6; or

...

...

## 10 CASS resolution pack

### 10.1 Application, purpose and general provisions

...

10.1.1 R (1) Subject to (2) this chapter applies to a *firm* when it:

(a) holds *financial instruments*, is *safeguarding and administering investments*, is *acting as trustee or depositary of an AIF* or is *acting as trustee or depositary of a UCITS*, in accordance with CASS 6; ~~and/or~~

(aa) is acting as a small AIFM and carries on excluded custody activities in accordance with CASS 6; and/or

(b) ...

(2) This chapter does not apply to a *firm* to which CASS 6 applies merely

because it is:

- (a) a firm which *arranges safeguarding and administration of assets*; or
- (b) a small AIFM carrying on those excluded custody activities that would amount to arranging safeguarding and administration of assets but for the exclusion in article 72AA of the RAO.

## Annex C

## Amendments to the Supervision manual (SUP)

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

## 16 Reporting requirements

...

### 16.14 Client money and asset return

...

16.14.4 R For the purposes of the *CMAR*:

...

(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), the safeguarding and administration of assets (without arranging) (in the course of business that is not MiFID business), acting as trustee or depositary of an AIF and acting as trustee or depositary of a UCITS;~~

(a) the holding of financial instruments (in the course of MiFID business);

(b) the safeguarding and administration of assets (without arranging) (in the course of business that is not MiFID business);

(c) acting as trustee or depositary of an AIF, and in this case also include any safe custody investments to which the firm, when acting for an authorised AIF, is required by CASS 6.1.16IAR(2) to apply the custody rules under CASS 6.1.1BR(2);

(d) acting as trustee or depositary of a UCITS; and

(e) those excluded custody activities carried on by a firm acting as a small AIFM, that would amount to the safeguarding and administration of assets (without arranging) but for the exclusion in article 72AA of the RAO.

16.14.5 G For the avoidance of doubt, the effect of *SUP 16.14.4R* is that the following are to be excluded from any calculations which the *CMAR* requires:

...

(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~~

(2A) any *safe custody assets* for which a *small AIFM* is:

(a) carrying on those *excluded custody activities* that would merely amount to *arranging safeguarding and administration of assets* but for the exclusion in article 72AA of the RAO; and

(b) is doing so in accordance with CASS 6; and

...

...

## 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*.

In applying the *CMAR* and this *guidance* to a *small AIFM*'s *excluded custody activities* falling under SUP 16.14.4R(2)(e), any reference to a *firm* carrying on the *regulated activity* of *safeguarding and administering investments* includes *excluded custody activities*.

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*. The meaning of *safe custody assets* for the purposes of the *CMAR* and this *guidance* is set out in SUP 16.14.4R(2).

...