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CHAPTER

CASS 1 Application and general provisions

Section : CASS 1.1 Application and purpose

CASS 1.1.1

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Application

CASS applies to a *firm* as specified in the remainder of this chapter.

CASS 1.1.2

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Purpose

The purpose of this chapter is to set out to whom, for what activities, and within what territorial limits the *rules*, *evidential provisions* and *guidance* in CASS apply.

Section : CASS 1.2 General application: who? what?

CASS 1.2.1	G	General application: who? <p>The <i>rules</i> in CASS 1.2 set out the maximum scope of this sourcebook. The application of CASS is modified for certain activities by CASS 1.4. Also particular chapters or sections of CASS may have provisions which limit their application.</p>
CASS 1.2.2	R	<p>CASS applies to every <i>firm</i>, except as provided for in CASS 1.2.3 R, with respect to the carrying on of:</p> <ol style="list-style-type: none"> (1) all <i>regulated activities</i> except to the extent that a provision of CASS provides for a narrower application; and (2) <i>unregulated activities</i> to the extent specified in any provision of CASS.
CASS 1.2.3	R	<p>CASS does not apply to an <i>ICVC</i>.</p>
CASS 1.2.4	R	<p>With the exception of this chapter and the <i>insurance client money chapter</i>, CASS does not apply to:</p> <ol style="list-style-type: none"> (1) an <i>authorised professional firm</i> with respect to its <i>non-mainstream regulated activities</i>; or (2) the <i>Society</i>.
CASS 1.2.5	R	<p>The <i>insurance client money chapter</i> does not apply to an <i>authorised professional firm</i> with respect to its <i>non-mainstream regulated activities</i>, which are <i>insurance distribution activities</i>, if:</p> <ol style="list-style-type: none"> (1) the <i>firm's designated professional body</i> has made rules which implement article 10.6 of the <i>IDD</i>; (2) those rules have been approved by the <i>FCA</i> under <i>section 332(5)</i> of the <i>Act</i>; and (3) the <i>firm</i> is subject to the rules in the form in which they were approved.
CASS 1.2.5A	G	<ol style="list-style-type: none"> (1) In the <i>client money chapter</i> and the <i>insurance client money chapter</i>, an <i>insurance undertaking</i> acts as such when it carries on the business of <i>effecting or carrying out contracts of insurance</i>. (2) An <i>insurance undertaking</i> does not act as such when it enters into a <i>reinsurance contract</i> as a client of the <i>reinsurer</i>.
CASS 1.2.7	G	General application: what? <ol style="list-style-type: none"> (1) [deleted] (2) [deleted] (3) [deleted] (3A) [deleted] (4) [deleted] (5) [deleted]

(6) [deleted]

(7) The *debt management client money chapter* applies to *CASS debt management firms* receiving or holding *client money* for, or on behalf of, a client in the course of or in connection with *debt management activity*.

CASS 1.2.8

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Application for retail clients, professional clients and eligible counterparties

(1) *CASS* applies directly in respect of activities conducted with or for all categories of clients.

(2) [deleted]

(3) The *insurance client money chapter* does not generally distinguish between different categories of *client*. However, the term *consumer* is used for those to whom additional obligations are owed, rather than the term *retail client*. This is to be consistent with the *client* categories used in the Insurance: New Conduct of Business sourcebook.

(4) Each provision in the *collateral rules*, *custody chapter*, the *client money chapter* and *CASS 9* (Information to clients) makes it clear whether it applies to activities carried on for *retail clients*, *professional clients* or both.

(4A) There is no further modification of the *rules* in the chapters referred to in (4) for activities carried on for *eligible counterparties*. Such *clients* are treated in the same way as other *professional clients* for the purposes of these *rules*.

(5) The *debt management client money chapter* generally applies in respect of relevant dealings with the client category known as *customers*. In general, the client categories of *retail clients*, *professional clients*, as well as *eligible counterparties*, have no relevance to *credit-related regulated activities*, including *debt management activities*.

CASS 1.2.9A

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Application for affiliates

(1) The fact that a *firm's client* is an *affiliated company* for *MiFID business* does not affect the operation of *CASS* to the *firm* in relation to that *client*.

(2) For business that is not *MiFID business*, the operation of the *custody chapter* or the *client money chapter* may differ if a *firm's client* is an *affiliated company* and depending on certain other conditions (see, for example, *CASS 6.1.10B R* and *CASS 7.10.26 R*).

CASS 1.2.11

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Investments and money held under different regimes

(1) A *firm* must not keep *money* in respect of which any one of the following chapters applies in the same *client bank account* or *client transaction account* as *money* in respect of which another of the following chapters applies:

- (a) the *client money chapter*;
- (b) the *insurance client money chapter*;
- (c) the *debt management client money chapter*.

(2) In accordance with *CASS 7.10.36 R*, a *firm* which is subject to the *client money chapter* and holds *money* both (i) in its capacity as a *trustee firm* and (ii) other than in its capacity as

a *trustee firm* must not keep *money* held in its capacity as a *trustee firm* in the same *client bank account* or *client transaction account* as *money* held other than in its capacity as a *trustee firm*.

(3) To the extent that the restriction under (1) or (2) applies to a *firm*, the *client bank accounts* and *client transaction accounts* that a *firm* holds in respect of different chapters or in its different capacities (as the case may be) must be separately designated.

- CASS 1.2.12 **G** The purpose of the *rules* regarding the segregation of investments and *money* held under different regimes is to reduce the risk of confusion between assets held under different regimes either on an on-going basis or on the *failure* of a *firm* or a third party holding those assets.
- CASS 1.2.13 **G** A *firm* may, where permitted by the relevant *rules* opt to hold under a single chapter *money* that would otherwise be held under different chapters (see *CASS 7.10.3 R* and *CASS 7.10.30 R*). However, making such an election does not remove the requirement under *CASS 1.2.11R (1)*.

Section : CASS 1.3 General application: where?

CASS 1.3.1 **G** The *rules* in *CASS 1.3* set out the maximum territorial scope of this sourcebook. Particular *rules* may have express territorial limitations.

CASS 1.3.2 **R** **UK establishments: general**
CASS 1 to *CASS 13* apply to every *firm*, in relation to *regulated activities* carried on by it from an *establishment* in the *United Kingdom*.

CASS 1.3.2A **G** The territorial scope of *CASS 14* is set out at *CASS 14.1.6R*.

Section : CASS 1.4 Application: particular activities

CASS 1.4.1

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Occupational pension scheme firms (OPS firms)

In the case of *OPS activity* undertaken by an *OPS firm*, *CASS* applies with the following general modifications:

- (1) references to *customer* are to the *OPS* or *welfare trust*, whichever fits the case, in respect of which the *OPS firm* is acting or intends to act, and with or for the benefit of which the relevant activity is to be carried on; and
- (2) if an *OPS firm* is required by any *rule* in *CASS* to provide information to, or obtain consent from, a *customer*, that *firm* must ensure that the information is provided to, or consent obtained from, each of the trustees of the *OPS* or *welfare trust* in respect of which that *firm* is acting, unless the context requires otherwise.

CASS 1.4.2

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Stock lending activity with or for clients

- (1) The *custody chapter* and the *client money chapter* apply in respect of any *stock lending activity* that is undertaken with or for a *client* by a *firm*.
- (2) The *collateral rules* apply, where relevant, in respect of *stock lending activity*.

CASS 1.4.3

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Corporate finance business

- (1) The *custody chapter* and the *client money chapter* apply in respect of *corporate finance business* that is undertaken by a *firm*.
- (2) The *collateral rules* apply, where relevant, in respect of *corporate finance business*.

CASS 1.4.4

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Oil market activity and energy market activity

- (1) The *custody chapter* and the *client money chapter* apply in respect of *oil market activity* and other *energy market activity* that is undertaken by a *firm*.
- (2) The *collateral rules* apply, where relevant, in respect of *energy market activity*.

CASS 1.4.5

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Appointed representatives and tied agents

- (1) Although *CASS* does not apply directly to a *firm's appointed representatives*, a *firm* will always be responsible for the acts and omissions of its *appointed representatives* in carrying on business for which the *firm* has accepted responsibility (section 39(3) of the Act). In determining whether a *firm* has complied with any provision of *CASS*, anything done or omitted by a *firm's appointed representative* (when acting as such) will be treated as having been done or omitted by the *firm* (section 39(4) of the Act). Equally, *CASS* does not apply directly to *tied agents*. A *MiFID investment firm* will be fully and unconditionally responsible for the acts and omission of the *tied agents* that it appoints.
- (2) *Firms* should also refer to *SUP 12* (Appointed representatives), which sets out requirements which apply to *firms* using *appointed representatives* and *tied agents*.

CASS 1.4.6 **R** **Depositories**

The *client money chapter* does not apply to a *depository* when acting as such.

CASS 1.4.6A **G** Firms acting as trustee or depository of an AIF are reminded of the obligations in *FUND 3.11* (Depositories) and Chapter IV (Depository) of the AIFMD level 2 regulation which apply in addition to those in *CASS*.

CASS 1.4.6B **G** *Firms acting as trustee or depository of a UK UCITS* are reminded of the obligations in *COLL 6.6B* (UCITS depositories) and in the *UCITS level 2 regulation*, which apply in addition to those in *CASS*.

CASS 1.4.7 **R** Subject to *CASS 1.4.6 R*, *CASS* applies to a *depository*, when acting as such, with the following general modifications: '*client*' means '*trustee*', 'trust', 'AIF', 'AIFM acting on behalf of the AIF', '*UCITS scheme*', '*authorised fund manager* acting on behalf of the *UCITS scheme*', or '*collective investment scheme*', as appropriate.

CASS 1.4.8A **R** (1) The application of *CASS* for a *trustee firm* acting as a *depository* is set out in *CASS 1.4.6 R* and *CASS 1.4.7 R*.

(2) The application of *CASS* for a *trustee firm* that is not acting as a *depository* is limited as follows:

- (a) the *mandate rules* apply;
- (b) for *MiFID business*, the *custody chapter* and the *client money chapter* apply; and
- (c) for business that is not *MiFID business*, the *custody chapter* and the *client money chapter* apply only to *trustee firms* acting as trustees of *personal pension schemes* or *stakeholder pension schemes*, including *SIPPs*.

(3) To the extent that *CASS* applies to a *trustee firm*, it applies with the following general modification: '*client*' means 'relevant *trustee*', 'trust', or 'beneficiary', as appropriate.

CASS 1.4.15 **G** **Debt management activities**

(1) The *debt management client money chapter* applies to *CASS debt management firms* receiving or holding *client money*.

(2) The *mandate rules* apply, where relevant, to *CASS debt management firms* carrying on *debt management activity*.

Section : CASS 1.5 Application: electronic media and E-Commerce

CASS 1.5.1

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Application to electronic media

GEN 2.2.14 R (References to writing) has the effect that electronic media may be used to make communications that are required by the *Handbook* to be "in writing" unless a contrary intention appears.

CASS 1.5.2

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For any electronic communication with a *customer*, a *firm* should:

- (1) have in place appropriate arrangements, including contingency plans, to ensure the secure transmission and receipt of the communication; it should also be able to verify the authenticity and integrity of the communication; the arrangements should be proportionate and take into account the different levels of risk in a *firm's* business;
- (2) be able to demonstrate that the *customer* wishes to communicate using this form of media; and
- (3) if entering into an agreement, make it clear to the *customer* that a contractual relationship is created that has legal consequences.

CASS 1.5.3

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Firms should note that *GEN 2.2.14 R* does not affect any other legal requirement that may apply in relation to the form or manner of executing a *document* or agreement.