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## CHAPTER

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# CASS 1A CASS firm classification and operational oversight

## Section : CASS 1A.1 Application

### CASS 1A.1.1

**R**

(1) Subject to (2), (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.

(2) In relation to a *firm* to which *CASS 5* (Client money: insurance distribution activity) and *CASS 7* (Client money rules) apply, this chapter does not apply in relation to *client money* that a *firm* holds in accordance with *CASS 5*.

(3) The *rules* and *guidance* in *CASS 1A.2* apply to a *firm* even if at the date of the determination or, as the case may be, the notification, either or both of *CASS 6* and *CASS 7* do not apply to it, provided that:

(a) either or both of those chapters applied to it during part or all of the previous calendar year; or

(b) it projects that either or both will apply to it in the current calendar year.

(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*.

### CASS 1A.1.2

**R**

The *rules* and *guidance* in *CASS 1A.2* (CASS firm classification) do not apply to a *firm* following its *failure*.

## Section : CASS 1A.2 CASS firm classification

- CASS 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.2.7 R**. 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.3.1A R** and whether the reporting obligations in **SUP 16.14** (Client money and asset return) apply to it.
- CASS 1A.2.2 R**
- (1) A *firm* must once every year, and 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.2.7 R**.
  - (2) For the purpose of determining its ‘CASS firm type’ in accordance with **CASS 1A.2.7 R**, a *firm* must:
    - (a) if it currently holds *client money* or *safe custody assets*, calculate the higher of the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year ending on 31 December and use that figure to determine its ‘CASS firm type’;
    - (b) if it did not hold *client money* or *safe custody assets* in the previous calendar year but projects that it will do so in the current calendar year, calculate the higher of the highest total amount of *client money* and the highest total value of *safe custody assets* that it projects that it will hold during that year and use that figure to determine its ‘CASS firm type’; but
    - (c) in either case, exclude from its calculation any *client money* held in accordance with **CASS 5** (Client money: insurance distribution activity) or **CASS 13** (Claims management: client money).
- CASS 1A.2.3 R** 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 calendar year a *firm* must:
- (1) in complying with **CASS 1A.2.2R (2)(a)**, base its calculation upon internal reconciliations performed during the previous year;
  - (2) 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 assets* into sterling at the previous *day’s* closing spot exchange rate; and
  - (3) in relation to *safe custody assets* only, calculate their total value using the previous *day’s* closing mark to market valuation, or if in relation to a particular *safe custody asset* none is available, the most recent available valuation.
- CASS 1A.2.4 G** One of the consequences of **CASS 1A.2.2 R** is that a *firm* that determines itself to be a *CASS small firm* or a *CASS medium firm* will, at least if it exceeds during the course of a calendar year either of the limits in **CASS 1A.2.7 R** that applies to it, become in the next calendar year:
- (1) in the case of a *CASS small firm*, a *CASS medium firm* or a *CASS large firm*; and

(2) in the case of a *CASS medium firm*, a *CASS large firm*.

#### CASS 1A.2.5 **R**

- (1) Notwithstanding *CASS 1A.2.2 R*, provided that the conditions in (2) are satisfied a *firm* may elect to be treated:
- (a) as a *CASS medium firm*, in the case of a *firm* that is classed by the application of the limits in *CASS 1A.2.7 R* as a *CASS small firm*; and
  - (b) as a *CASS large firm*, in the case of a *firm* that is classed by the application of the limits in *CASS 1A.2.7 R* as a *CASS medium firm*.
- (2) The conditions to which (1) refers are that in either case:
- (a) the election is notified to the *FCA* in writing;
  - (b) the notification in accordance with (a) is made at least one week before the election is intended to take effect; and
  - (c) the *FCA* has not objected.

#### CASS 1A.2.6 **G**

*CASS 1A.2.5 R* provides a *firm* with the ability to opt in to a higher category of 'CASS firm type'. This may be useful for a *firm* whose holding of *client money* and *safe custody assets* is near the upper categorisation limit for a *CASS small firm* or a *CASS medium firm*.

#### CASS 1A.2.7 **R**

CASS firm types

CASS firm type	Highest total amount of <i>client money</i> held during the <i>firm's</i> last calendar year or as the case may be that it projects that it will hold during the current calendar year	Highest total value of <i>safe custody assets</i> held by the <i>firm</i> during the <i>firm's</i> last calendar year or as the case may be that it projects that it will hold during the current calendar year
<i>CASS large firm</i>	more than £1 billion	more than £100 billion
<i>CASS medium firm</i>	an amount equal to or greater than £1 million and less than or equal to £1 billion	an amount equal to or greater than £10 million and less than or equal to £100 billion
<i>CASS small firm</i>	less than £1 million	less than £10 million

#### CASS 1A.2.9 **R**

Once every calendar year a *firm* must notify to the *FCA* 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):

- (1) 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) 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, 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 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).

- CASS 1A.2.10 R** For the purpose of the annual notification to which **CASS 1A.2.9 R** refers, a *firm* must apply the calculation *rule* in **CASS 1A.2.3 R**.
- CASS 1A.2.11 G** For the purpose of **CASS 1A.2.9 R (1)**, the *FCA* will treat that obligation as satisfied if a *firm* submitted a *CMAR* for each period within the previous calendar year in compliance with **SUP 16.14.3 R**.
- CASS 1A.2.12 R** A *firm's* 'CASS firm type' and any change to it takes effect:
- (1) if the *firm* notifies the *FCA* in accordance with **CASS 1A.2.9 R (1)** or **CASS 1A.2.9 R (2)**, on 1 February following the notification; or
  - (2) if the *firm* notifies the *FCA* in accordance with **CASS 1A.2.9 R (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.2.5 R (1)**, and provided the conditions in **CASS 1A.2.5 R (2)** are satisfied, on the *day* the notification made under **CASS 1A.2.5 R (2)(a)** states that the election is intended to take effect.
- CASS 1A.2.13 G** Any written notification made to the *FCA* under this chapter should be marked for the attention of: "Client Assets Firm Classification".

## Section : CASS 1A.3 Responsibility for CASS operational oversight

### CASS 1A.3.1 **R**

(1) A *CASS small firm* must allocate to a single *director* or *senior manager* of sufficient skill and authority responsibility for:

- (a) oversight of the *firm's* operational compliance with *CASS*; and
- (b) reporting to the *firm's governing body* in respect of that oversight.

(2) [deleted]

[**Note:** article 7, first paragraph of the *MiFID Delegated Directive*]

### CASS 1A.3.1-A **G**

The material in *CASS 1A.3.1BG* about how *CASS 1A.3* fits into the *FCA* senior managers and certification regime for *SMCR firms* also applies to a *CASS small firm* that is an *SMCR firm* and the function in *CASS 1A.3.1R*.

### CASS 1A.3.1A **R**

#### The senior managers regime and the certification regime

A *CASS medium firm* and a *CASS large firm* must allocate to a single *director* or *senior manager* of sufficient skill and authority the function of:

- (1) oversight of the operational effectiveness of that *firm's* systems and controls that are designed to achieve compliance with *CASS*;
- (2) reporting to the *firm's governing body* in respect of that oversight; and
- (3) completing and submitting a *CMAR* to the *FCA* in accordance with *SUP 16.14*.

[**Note:** article 7, first paragraph of the *MiFID Delegated Directive*]

### CASS 1A.3.1B **G**

(1)

(a) This paragraph *CASS 1A.3.1BG* describes how *CASS 1A.3.1AR* applies to *SMCR firms*.

(b) The function in *CASS 1A.3.1AR* is not a separate *controlled function* and performing that function does not require approval as an *approved person*.

(c) However, nothing in paragraphs (1A) to (4) affects the requirement for the function in *CASS 1A.3.1AR* to be allocated to a single *director* or *senior manager* of sufficient skill and authority in accordance with *CASS 1A.3.1AR* and *CASS 1A.3.2AR*.

(1A) There are three elements of the regime for *SMCR firms* that are particularly relevant to *CASS 1A*, although they do not all apply to all *SMCR firms*:

- (a) a *firm's* obligation to allocate certain responsibilities to its *SMF managers* (see *SYSC 24* (Senior managers and certification regime: Allocation of prescribed responsibilities));
- (b) a *firm's* obligation to ensure that one or more of its *SMF managers* have overall responsibility for each of its activities, business areas and management functions (see *SYSC 26* (Senior managers and certification regime: Overall and local responsibility)); and
- (c) the certification regime (the certification regime is explained in *SYSC 27* (Senior managers and certification regime: Certification regime) and *SYSC TP 7* (*Bank of England and Financial Services Act 2016*: Certification and regulatory references))

explains that the certification regime comes into force sometime after other parts of the senior managers and certification regime).

(2)

(a) This paragraph (2) explains how **CASS 1A.3.1AR** applies to an **SMCR firm** to which **SYSC 24** and **SYSC 26** both apply.

(b) The **firm** must allocate responsibility for the **firm's** compliance with **CASS** to one of its **SMF managers** (see **SYSC 24.2.1R**). That responsibility is an “**FCA-prescribed senior management responsibility**”. The full list of **FCA-prescribed senior management responsibilities** is in the table in **SYSC 24.2.6R**.

(c) Although the **CASS** function in **SYSC 24.2.1R** is different from the function in **CASS 1A.3.1AR**, the **firm** may allocate the function in **CASS 1A.3.1AR** to the **SMF manager** in (b).

(d) The **firm** may allocate the **CASS FCA-prescribed senior management responsibility** described in (b) to an **SMF manager** who does not perform any other function coming within the **FCA** regime for **SMF managers** in **SMCR firms**. See **SUP 10C.7** (Other overall responsibility function (SMF18)) and **SUP 10C.8.1R** (Other local responsibility function (SMF22)) for details. Where this is the case, the manager will be performing the **other overall responsibility function** or the **other local responsibility function**.

(e) The **firm** may choose to allocate the function in **CASS 1A.3.1AR** to someone who is not an **approved person** and **SMF manager**. If so:

- (i) that **person** will be subject to the employee certification regime described in **SYSC 27** (Senior managers and certification regime: (Certification Regime);
- (ii) that **person** will be subject to supervision by the **SMF manager** in (b); and
- (iii) the function in **CASS 1A.3.1AR** will be the **CASS oversight FCA certification function** in **SYSC 27.8.1R**.

(3) In relation to an **SMCR firm** to which **SYSC 24** applies but **SYSC 26** does not apply, the **guidance** in sub-paragraphs (2)(b), (2)(c), and 2(e) applies, but the **guidance** in sub-paragraph (2)(d) does not apply.

(4)

(a) The position of an **SMCR firm** to which neither **SYSC 24** nor **SYSC 26** apply is slightly different.

(b) The **firm** may choose to allocate the function in **CASS 1A.3.1AR** to an **SMF manager**.

(c) The **firm** may instead choose to allocate the function in **CASS 1A.3.1AR** to someone who is not an **SMF manager**.

(d) Where (c) applies, the **person** performing the function in **CASS 1A.3.1AR** will fall into the certification regime. The function in **CASS 1A.3.1AR** will be the **CASS oversight FCA certification function** in **SYSC 27.8.1R**.

#### CASS 1A.3.2A **R**

Where a **firm** allocates the responsibilities in **CASS 1A.3.1R** or **CASS 1A.3.1AR** (“the **CASS oversight responsibilities**”) to a **director** or **senior manager** (“**P**”), the **firm** must not allocate any other responsibilities to **P** in addition to the **CASS oversight responsibilities**, unless the **firm** is satisfied on reasonable grounds that:



- (1) P will still be able to discharge the CASS oversight responsibilities effectively; and
- (2) the *firm's* full compliance with CASS will not be compromised.

[**Note:** article 7, second paragraph of the *MiFID Delegated Directive*]

**CASS 1A.3.2B R** A *firm* may allow the CASS oversight responsibilities to be shared amongst one or more *directors* or *senior managers* where this is done as part of a job share between those *persons*.

**CASS 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.3.1 R* or *CASS 1A.3.1A R*.
- (2) A *CASS small firm* must make and retain such a record only where it allocates responsibility to a *person* other than the *person* in that *firm* who performs the *compliance oversight function*.
- (3) A *firm* must ensure that the record made under this *rule* is retained for a period of five years after it is made.