

## CASS 10 – Resolution Pack

### **The requirements of the CASS RP**

The purpose of the CASS 10 Resolution Pack (“CASS RP”) rules are for firms to maintain and be able to retrieve information that would assist an Insolvency Practitioner (IP) in the timely return of client money/assets in the event of the firm’s insolvency. The RP may also be required to be retrieved to assist the Bank of England or the FCA in discharging their own responsibilities. Note that further references in this document to retrieving it for an IP include the Bank of England and the FCA.

The CASS RP rules apply to all firms who hold client money and/or safe custody assets. As such it is expected that the CASS RP rules will apply to all clients of ‘The TA Forum’ member firms where standard TA services are provided.

The complete CASS RP must be able to be retrieved within 48 hours (note that this is not 2 business days). So that’s 48 hours of an IP being appointed and taking steps to retrieve its component information or when the firm itself has chosen to retrieve it (a retrieval test). Some component parts of the CASS RP must be able to be retrieved immediately e.g. the most recent client money reconciliations.

Firms should ensure that material changes to the documents that will make up its RP, including the steps it takes to retrieve those documents, are made within 5 business days of the change happening. Firms should define what they feel is a material change e.g. in a policy document.

If the firm’s CASS RP tells an IP to use a system to retrieve a component document then the firm should ensure that the system will be operational and accessible following an insolvency event.

The CASS 10 rules outline the mandatory information that firms must include in their RP. These are split into core content requirements and existing records. Existing records are items which the firm should already retain as part of its compliance with the safe custody assets (CASS 6) or client money (CASS 7) requirements. Firms may include additional documents at their own discretion if they have concluded that this would aid an IP in the timely return of client money/assets after insolvency e.g. operating/business model information. If non-mandatory information is included in the CASS RP then firms should ensure that this is able to be retrieved within 48 hours and that the source information is maintained such that it is accurate and complete when it is retrieved.

### **Contractual status of TA services**

Whilst it is our view that what will actually happen in an insolvency event will be variable and fluid we believe that the legal obligations of the parties involved will become increasingly important for an IP and reliance should not be placed on goodwill especially where there is potential for a dispute with the responsibilities of any party. Firms may have an ‘exit plan’ within their contract with their TA that covers events such as the insolvency of either party. Firms should ensure that their contracts with their TA do not conflict with their CASS RP retrieval procedures with regards to any involvement with their TA.

We recommend that when determining the documents that should make up its RP, or how to retrieve them, that firms should not assume that their staff who normally perform the operational functions will be available after insolvency. The working basis should be that the only staff that the IP will contact, to assist them, are the critical individuals listed in the relevant RP document (see 10.2.1(4)).

To ensure that the IP is able to retrieve the RP component documents as soon as possible, especially if they need to be retrieved immediately, we recommend that firms should, where possible, minimise their reliance on their TA for the provision of these documents. For example, it is likely that TAs will provide client money reconciliations to firms on a daily basis for their own oversight procedures and that firms will retain those within their own network. In most cases we would expect that it would be quicker for an IP to access those documents from the firm's own locations rather than the IP first having to determine how to contact the TA and then making a request.

### **Breaches**

Whilst CASS 10 is not currently in scope for CASS audits, firms may wish to record breaches as part of their own internal governance arrangements. If this is the case, we would expect breaches to be recorded where the complete CASS RP cannot be retrieved by the firm in the required timescales when it has taken a decision to do so e.g. in an RP retrieval test. The firm may also report breaches where it identifies that CASS RP content information is materially incorrect or incomplete.

### **Contents of the CASS RP**

The following sections outline the mandatory contents of the CASS RP and how their retrieval may relate to a firm's relationship with its TA.

**CASS 10.2 – Core content requirements**

CASS Rule 10.2.1(x)	CASS 10.2 – Core content	The TA Forum comments
1	A master document containing information sufficient to retrieve each document in the firms CASS resolution pack.	The firm is responsible for its master document.
2	<p>A document which identifies the institutions the firm has appointed (including through an appointed representative, tied agent, field representative or other agent)</p> <p>(a) in the case of client money, for the placement of money in accordance with CASS 7.13.3R or to hold <i>client money</i> in accordance with CASS 7.14.2 R; and</p> <p>(b) in the case of safe custody assets, for the deposit of those assets in accordance with CASS 6.3.1 R</p> <p>For the purposes of this rule, a firm must ensure that the document records;</p> <p>(1) The full name of the individual institution in question;</p> <p>(2) The postal and email address and telephone number of that institution; and</p> <p>(3) The numbers of all accounts opened by that firm with that institution.</p>	<p><b>**IMMEDIATELY RETRIEVABLE**</b></p> <p>The firm is responsible for detailing each institution they have appointed to hold or control client money/safe custody assets, their contact details, the corresponding account numbers and for including this information in its CASS RP.</p> <p>Firms may wish to validate this list with their TA, on a periodic basis, with regards to the bank/custody accounts they have administration over to ensure accuracy and completeness.</p>
3	A document which identifies each appointed representative, tied agent, field representative or other agent of the firm which receives client money or safe custody assets in its capacity as the firm’s agent.	The firm is responsible for detailing each appointed representative, tied agent, field representative or other agent of the firm which receives client money or safe custody assets in its capacity as the firm’s agent and for including this information in its CASS RP.



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CASS Rule 10.2.1(x)	CASS 10.2 – Core content	The TA Forum comments
4	<p>A document which identifies:</p> <p>(a) each senior manager and director and any other individual and the nature of their responsibility within the firm who is critical or important to the performance of operational functions related to any of the obligations imposed on the firm by CASS 6 or CASS 7; and</p> <p>(b) the individual to whom responsibility for CASS oversight has been allocated under CASS 1A.3.1R or, as the case may be, to whom the CASS operational oversight function has been allocated.</p> <p>For the purpose of this rule, example of individuals include those necessary to carry out both internal and external client money and safe custody asset reconciliations and record checks and those in charge of client documentation for business involving client money and safe custody assets.</p>	<p><b>**IMMEDIATELY RETRIEVABLE**</b></p> <p>The firm is responsible for detailing these ‘critical individuals’ and for including this information in its CASS RP.</p> <p>There is no expectation that this will include TA employees and their contact details although firms may wish to reference this elsewhere in their CASS RP in order to assist an IP. In this case the firm would need to put in place arrangements with its TA to ensure the TA employee information is able to be retrieved immediately by an IP and is kept accurate and complete.</p>
5	<p>For each institution identified in CASS 10.2.1R (2), a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between that institution and the firm that relates to the holding of client money or safe custody assets including any written notification acknowledgement letters sent or received pursuant to CASS 7.18.</p>	<p><b>**IMMEDIATELY RETRIEVABLE**</b></p> <p>The firm is responsible for retaining these contracts, agreements or acknowledgement letters between itself and their bank/custodian and for including them in its CASS RP.</p>



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CASS Rule 10.2.1(x)	CASS 10.2 – Core content	The TA Forum comments
6	<p>A document which:</p> <p>(a) identifies each member of the firms group involved in operational functions related to obligations imposed on the firm under CASS 6 or CASS 7, including in the case of a member that is a nominee company, identification as such; and</p> <p>(b) identifies each third party which the firm uses for the performance of operational functions related to any of the obligations imposed on the firm by CASS 6 or CASS 7; and</p> <p>(c) for each group member identified in (a), the type of entity (such as branch, subsidiary and or nominee company) the group member is, its jurisdiction of incorporation if applicable, and a description of its related operational functions.</p>	<p>The firm is responsible for identifying these parties and for including this information in its CASS RP.</p> <p>In the case of (b), we would expect that this would include the firm’s TA.</p>
7	<p>A copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement between the firm and each third party identified in (6)(b).</p>	<p>The firm is responsible for retaining these contracts and agreements between itself and e.g. their TA and for including them in its CASS RP.</p>
8	<p>Where the firm relies on a third party identified in (6)(b), a document which describes how to:</p> <p>gain access to relevant information held by that third party; and effect the transfer of any of the client money or safe custody assets held by the firm, but controlled by that third party.</p>	<p>The firm is responsible for describing how it gains access to information held by the relevant third party and effect the transfer of any of the client money or safe custody assets held by the firm, but controlled by its TA and for including this information in its CASS RP.</p> <p>However, the firm should speak with its TA to ensure that the procedure they describe is consistent with the BAU processes around how their TA receives and processes instructions from the firm in order to make payments or transfers of client money/safe custody assets. Bearing in mind that this could be automated, e.g. instructions issued using a system/platform, or a manual process.</p>



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CASS Rule 10.2.1(x)	CASS 10.2 – Core content	The TA Forum comments
9	A copy of the firm’s manual in which are recorded its procedures for the management, recording and transfer of the client money and safe custody assets that it holds.	The firm is responsible for including its procedures manuals in its CASS RP.  Where services, such as maintaining client money records, are outsourced to a TA there is no expectation for the firm to include the TA’s procedures in its CASS RP.

**CASS 10.3 – Existing records forming part of the CASS resolution pack**

<b>CASS Rule 10.3.x</b>	<b>Existing records forming part of the CASS resolution pack</b>	<b>The TA Forum comments</b>
1	<p>CASS 6.3.2A R (safe custody assets: appropriateness of the firms selection of a third party)</p> <p><i>(1) A firm must make a record of the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a third party under CASS 6.3.1 R. The firm must make the record on the date it makes the selection or appointment and must keep it from that date until five years after the firm ceases to use the third party to hold safe custody assets belonging to clients.</i></p> <p><i>(2) A firm must make a record of each periodic review of its selection and appointment of a third party that it conducts under CASS 6.3.1 R, its considerations and conclusions. The firm must make the record on the date it completes the review and must keep it from that date until five years after the firm ceases to use the third party to hold safe custody assets belonging to clients.</i></p>	<p>The firm is responsible for the selection and due diligence of third parties used to deposit safe custody assets (if applicable) and for including these records in its CASS RP.</p>



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CASS Rule 10.3.x	Existing records forming part of the CASS resolution pack	The TA Forum comments
1A	<p><b>CASS 6.3.6A R (third party rights over client assets)</b></p> <p><i>(1) A firm must not grant any security interest, lien or right of set-off to another person over clients' safe custody assets that enable that other person to dispose of the safe custody assets in order to recover debts unless condition (a) or (b) is satisfied:</i></p> <p><i>(a) those debts relate to:</i></p> <p><i>(i) one or more of the firm's clients; or</i></p> <p><i>(ii) the provision of services by that other person to one or more of the firm's clients; or</i></p> <p><i>(b) to the extent those debts relate to anything else then:</i></p> <p><i>(i) the security interest, lien or right of set-off is required by applicable law in a third country jurisdiction in which the safe custody assets are held;</i></p> <p><i>(ii) the firm discloses information to the client so that the client is informed of the risks associated with these arrangements; and</i></p> <p><i>(iii) the firm has taken reasonable steps to determine that holding safe custody assets subject to that security interest, lien or right of set-off is in the best interests of the firm's clients.</i></p> <p><i>(2) Where security interests, liens or rights of set-off are granted by a firm over safe custody assets, or where the firm has been informed that they are granted, these must be recorded in client contracts and the firm's own books and records to make the ownership status of safe custody assets clear, such as in the event of an insolvency.</i></p>	<p>The firm is responsible for maintaining the records relating to the granting of security interests, liens or rights of set-off over safe custody assets to third parties where it is permitted by CASS 6 (if applicable) and for including these records in its CASS RP.</p>
2	<p><b>CASS 6.4.3 R (firm's use of safe custody assets)</b></p> <p><i>Where a firm uses safe custody assets as permitted in this section, the records of the firm must include details of the client on whose instructions the use of the safe custody assets has been effected, as well as the number of safe custody assets used belonging to each client who has given consent, so as to enable the correct allocation of any loss.</i></p>	<p>The firm is responsible for maintaining the records relating to where it has used safe custody assets (if applicable) and for including these records in its CASS RP.</p>
3	<p><b>CASS 6.6.2 R and CASS 6.6.3 R (safe custody assets held for each client)</b></p> <p><b>6.6.2 R</b> <i>A firm must keep such records and accounts as necessary to enable it at any time and without delay to distinguish safe custody assets held for one client from safe custody assets held for any other client, and from the firm's own applicable assets.</i></p> <p><b>6.6.3 R</b> <i>A firm must maintain its records and accounts in a way that ensures their accuracy, and in particular their correspondence to the safe custody assets held for clients and that they may be used as an audit trail.</i></p>	<p>The TA will provide a list of the safe custody assets held for each client if CASS 6 applies to the services provided.</p>





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4	<p><b>CASS 6.6.6 R (Client agreements: firm’s right to use)</b>  <i>A firm must keep a copy of every executed client agreement that includes that firm's right to use safe custody assets for its own account (see CASS 6.4.1 R), including in the case of a prime brokerage agreement the disclosure annex referred to in CASS 9.3.1R.</i></p>	<p>The firm is responsible for retaining executed agreements with its clients and for including these records in its CASS RP.</p>
4A	<p><b>CASS 6.6.8 R (internal custody record checks, physical asset reconciliations and external custody reconciliations)</b>  <i>For each internal custody record check, each physical asset reconciliation and each external custody reconciliation carried out by a firm, it must make a record including:</i>  <i>(1) the date it carried out the relevant process;</i>  <i>(2) the actions the firm took in carrying out the relevant process; and</i>  <i>(3) a list of any discrepancies the firm identified and the actions the firm took to resolve those discrepancies..</i></p>	<p><b>**IMMEDIATELY RETRIEVABLE**</b></p> <p>The TA will provide the latest internal custody record checks, physical asset reconciliations and external custody reconciliations if they apply to the services provided. Note that this may be the previous working days/months files, as per the reconciliations frequency, depending on when the RP request is made.</p> <p>Where firms are in receipt of this information as part of their oversight of their TA they may find it will be retrieved quicker from their own network locations.</p>
5A	<p><b>SYSC 6.1.1 R (policy and procedures for carrying out record checks and reconciliations)</b>  <i>A firm must establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the firm including its managers, employees and appointed representatives (or where applicable, tied agents) with its obligations under the regulatory system and for countering the risk that the firm might be used to further financial crime.</i></p>	<p>The firm is responsible for including its policies/procedures on record checks and reconciliations in its CASS RP.</p> <p>Where record checks and reconciliations are outsourced to a TA there is no expectation for the firm to include the TA’s procedures.</p>

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5B	<p><b>CASS 7.13.14B R (policy for use of client bank accounts under CASS 7.13.13 R (3A)(b))</b></p> <p><i>(1) A firm must make and retain a written record of:</i></p> <p><i>(a) the written policy it produces under CASS 7.13.14AR(1)(a); and</i></p> <p><i>(b) each subsequent version of the written policy it produces as a result of CASS 7.13.14AR(2)(b).</i></p> <p><i>(2) The firm must make the record:</i></p> <p><i>(a) under sub-paragraph (1)(a) on the date it produces the written policy; and</i></p> <p><i>(b) under sub-paragraph (1)(b) on the date it produces the new version of the written policy.</i></p> <p><i>(3) The firm must keep each record under this rule for a period of five years after the earlier of:</i></p> <p><i>(a) the date on which the version of the policy to which the record relates was superseded; and</i></p> <p><i>(b) the date on which the firm ceased to use client bank accounts under CASS 7.13.13R(3A)(b).</i></p>	<p>The firm is responsible for making and maintaining its record of its policy for use of client bank accounts under CASS 7.13.13R (3A)(b) – unbreakable deposit client bank accounts from 31-95 days – and for including these records in its CASS RP.</p>
6	<p><b>CASS 7.13.25 R (Client money: Appropriateness of the firm’s selection of a third party)</b></p> <p><i>(1) A firm must make a record of the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a bank or a qualifying money market fund under CASS 7.13.8 R. The firm must make the record on the date it makes the selection or appointment and must keep it from that date until five years after the firm ceases to use that particular person for the purposes of depositing client money under CASS 7.13.3 R.</i></p> <p><i>(2) A firm must make a record of each periodic review of its selection and appointment of a bank or a qualifying money market fund that it conducts under CASS 7.13.8 R, its considerations and conclusions. The firm must make the record on the date it completes the review and must keep it from that date until five years after the firm ceases to use that particular person for the purposes of depositing client money under CASS 7.13.3 R.</i></p> <p><i>(3) A firm must make a record of each periodic review that it conducts under CASS 7.13.22 R, its considerations and conclusions. The firm must make the record on the date it completes out the review and must keep it for five years from that date.</i></p>	<p>The firm is responsible for the selection and due diligence of third parties used to hold client money and for including these records in its CASS RP.</p>



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7	<p>CASS 7.15.2 R, CASS 7.15.3 R and CASS 7.15.5 R (client money held for each client)</p> <p><i>7.15.2 R</i> A firm must keep such records and accounts as are necessary to enable it, at any time and without delay, to distinguish client money held for one client from client money held for any other client, and from its own money.</p> <p><i>7.15.3 R</i> A firm must maintain its records and accounts in a way that ensures their accuracy, and in particular their correspondence to the client money held for clients and that they may be used as an audit trail.</p> <p><i>7.15.5 R</i> (1) A firm must maintain records so that it is able to promptly determine the total amount of client money it should be holding for each of its clients. (2) A firm must ensure that its records are sufficient to show and explain its transactions and commitments for its client money. (3) Unless otherwise stated, a firm must ensure that any record made under the this chapter is retained for a period of five years starting from the later of: (a) the date it was created; and (b) (if it has been modified since the date it was created), the date it was most recently modified.</p>	<p>The TA will provide the client money balances held for each client.</p>
7A	<p>CASS 7.15.7 R (internal client money reconciliations and external client money reconciliations)</p> <p><i>For each internal client money reconciliation and external client money reconciliation the firm conducts, it must ensure that it records:</i></p> <p>(1) the date it carried out the relevant process; (2) the actions the firm took in carrying out the relevant process; and (3) the outcome of its calculation of its client money requirement and client money resource.</p>	<p><b>**IMMEDIATELY RETRIEVABLE**</b></p> <p>The TA will provide the latest client money reconciliations. Note that this may be the previous working days/months files, as per the reconciliations frequency, depending on when the RP request is made.</p> <p>Where firms are in receipt of this information as part of their oversight of their TA they may find it will be retrieved quicker from their own network locations.</p>

CASS Rule 10.3.x	Existing records forming part of the CASS resolution pack	The TA Forum comments
10	<p><b>COBS 3.8.2 R (2)(a) and COBS 3.8.2 R (2)(c) (client categorisation)</b></p> <p><i>COBS 3.8.2 R (2)</i>  <i>A firm must make a record in relation to each client of:</i>  <i>(a) the categorisation established for the client under this chapter, including sufficient information to support that categorisation;</i>  <i>(c) a copy of any agreement entered into with the client under this chapter.</i></p>	The firm is responsible for recording its clients' categorisations and for including these records in its CASS RP.
11	<p><b>COBS 8.1.4 R or COBS 8A.1.9 R (retail and professional client agreements)</b></p> <p><i>COBS 8.1.4 R (non-MiFID business)</i>  <i>(1) A firm must establish a record that includes the document or documents agreed between it and a client which set out the rights and obligations of the parties, and the other terms on which it will provide services to the client.</i>  <i>(2) The record must be maintained for:</i>  <i>(b) unless (c) applies, at least the duration of the relationship with the client; or</i>  <i>(c) in the case of a record relating to a pension transfer, pension conversion, pension opt-out or FSAVC, indefinitely.</i></p> <p><i>COBS 8A.1.9 R (MiFID business)</i>  <i>A firm must establish a record that includes the document or documents agreed between it and a client which set out the rights and obligations of the parties, and the other terms on which it will provide services to the client.</i></p>	The firm is responsible for retaining and recording its legal agreements, terms and conditions and other arrangements it has with its clients and for including this information in its CASS RP.

### Important Information

This document has been compiled for the use of TA Forum members only and is for guidance purposes. This document has been written from the view point of TA's and the administration activities that they perform for regulated firms. Where any firms require further clarification of the rules, guidance should be sought from the FCA.

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