



**THE TA FORUM**

**CASS Seminar**

**PS 14/9: Firm Readiness  
& Responsibility**

# Objectives of The TA Forum

Our key aims are to: -

- Support and influence change where operational efficiencies can be improved across the UK investment management industry;
- Maintain and enhance the reputation and standing of the industry; and
- Provide a centre of excellence for the development of knowledge and understanding of the TA industry.



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# Principles & Initiatives

- Regulatory Initiatives (i.e. CASS, RDR, FATCA, AML)
- Definition and implementation of key process change
- Harmonising best practice



# Agenda

- PS 14/9 checklist: a CF10a view – Steven Latto (Aberdeen CF10a)
- TA Forum CASS Working Party Best Practice Statements – Martin Digweed (IFDS)
- Authorised fund managers and the DVP exemption - Ash Saluja (CMS)
- Questions and Answers Panel
- TA Forum Chairman closing remarks



**Steven Latto**  
**Head of CASS Operational Oversight**  
**Aberdeen Asset Management**

**PS 14/9 checklist: a CF10a view**

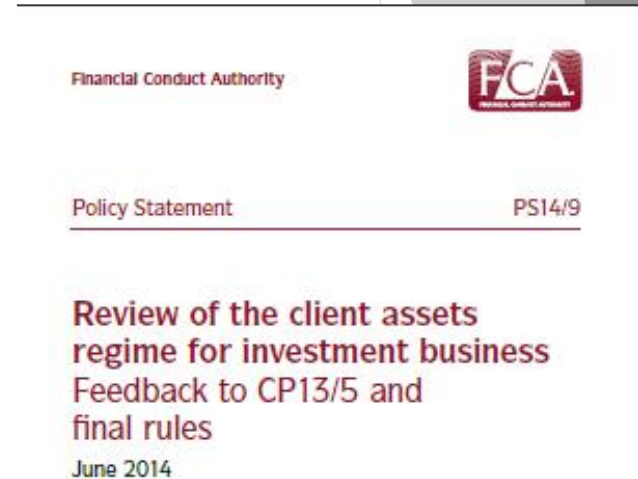


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# Financial Conduct Authority Policy Statement 14/9 – key objectives

**“Protecting client assets is fundamental to consumers’ rights and the trust they place in firms that are often acting as their agents, fiduciaries and/or counterparties; it is at the heart of ensuring a well-functioning and robust marketplace.”**

**FCA Client Assets Policy Statement 14/9 (June 2014)**



# Project planning phase

- **Identify key stakeholders**

- internal
- external

- **Determine impact on firm**

- gap analysis
- CASS regulated entities
- products/ CASS activities

- **Identify workstreams**

- key milestones
- determine priorities

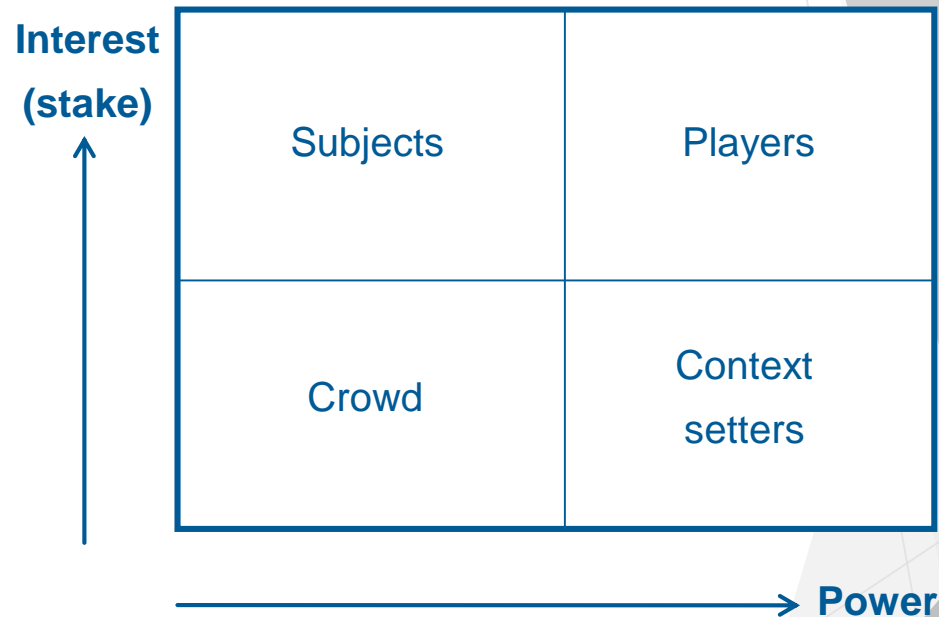
- **Review project plan**

- consult stakeholders

- **Confirm project governance arrangements**

- sign off arrangements

## Stakeholder analysis – power interest grid



**Ensure plans are fully documented – quality assurance checks vital**

# Governance arrangements – looking beyond the core tasks

## CASS training programme

- sufficiently comprehensive
- includes individuals at board/executive level
- focussed on changes to rules (and impact on processes)
- tailored appropriately in line with roles and responsibilities

## Documentation of outputs

- evidence essential to justify/explain key project decisions (e.g. reconciliation frequencies) – particularly important around interpretation of rules
- approval of key decisions
- consider where there may be challenge from stakeholders (e.g. auditors) - early engagement advisable





# Governance arrangements – looking beyond the core tasks (cont...)

## Enhance CASS policies

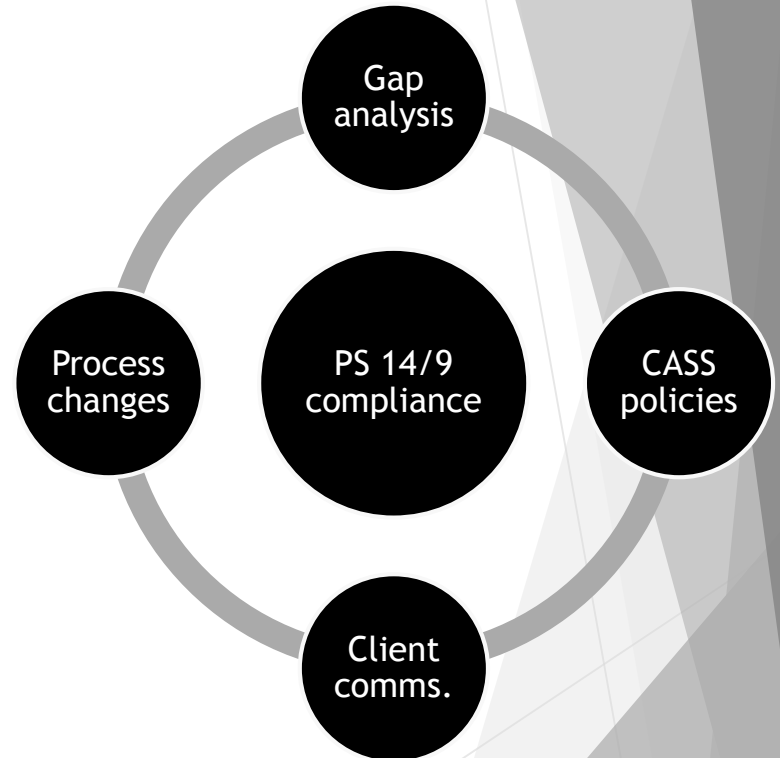
- identify changes to existing policies and need to develop new policies
- benchmarking of policies with peers
- ensure policies are focussed around individual CASS regulated entities
- effective governance around approval of policies

## Development of management information

- appropriate preventative and detective mix

## Look to link together key project documents and outputs

- ensure there are no gaps



# Key risks and considerations for a CF10a – some examples

## **Completeness**

- failure to identify full impact of rule changes
  - processes, products and transaction flows
  - impact on entities

## **Failure to communicate changes to all impacted client types**

- consider need for matrix of communication by product type
- identify all individual documents that need to be updated (e.g. T&Cs)

## **Evidencing key decisions**

- documentation of decisions (e.g. business model options)
- governance and sign-off on decisions

## **Ineffective communication with stakeholders**

## **Potential dependencies with other projects**



# **Key risks and considerations for a CF10a – some examples (cont...)**

## **Policies and procedures not in line with industry standard**

- risk of challenge from auditors or regulator
- development of best practice likely to emerge

## **Risks associated with transition to new model**

- for example, use of new client money bank accounts

## **Ensuring appropriate skill mix within project team**

- consider need for external support

## **Post project implementation review**

- in advance of CASS audit (if possible)

## **Consequential impacts**

- CMAR
- CASS Resolution Packs



**Martin Digweed**

**Head of Technical Regulatory &  
CASS Oversight**

**International Financial Data Services**

**TA Forum CASS Working Party Best  
Practice Statements**



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# Best Practice - why?

- Baseline to follow – start of the conversation
- Help align the trinity – client ↔ auditor ↔ TA
- Best Practice = compliance?
- Individual business models still exist
- Guide to the
  - 400+ pages of PS14/9,
  - 355 individual paragraphs on CASS 7 policy,
  - 60 detailed regulations alone on reconciliations,
  - 15 uses of the word fiduciary
  - .....and one large headache



# CASS 6 – Custody rules

## Registration of firm assets and custody assets

- Restrictions on firms ability to hold assets in own name
- Exemptions however – such as facilitating a client transaction
  - Deal error correction or break management
  - Deal allocation
  - Shortfall coverage
  - Fractional share management
- Must meet all rules – ISA and FCA

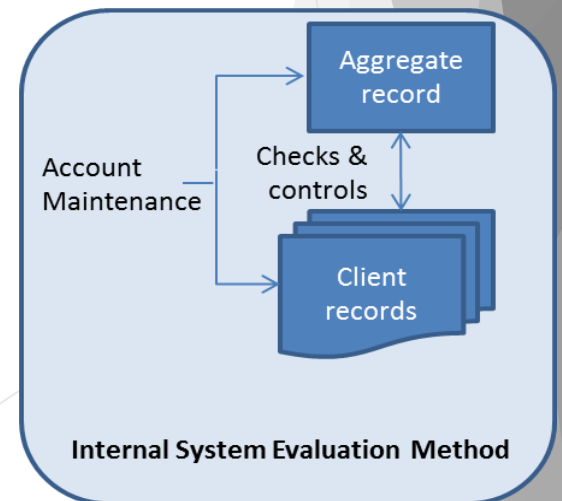
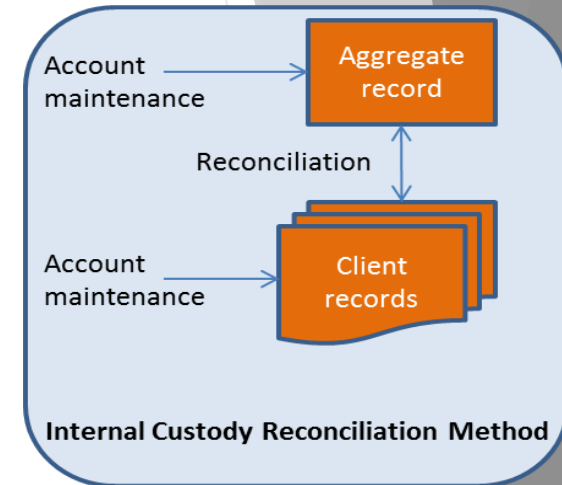
SHARE No. 1

NAME AND ADDRESS.		Date of Transfer.
Hall, Rev <sup>d</sup> James	D.D.	10 <sup>th</sup> Decr 1798
Reed, James	of the Exchequer	5 <sup>th</sup> Apr 1838
Brown, D <sup>r</sup> John	Broughton Place Church	16 <sup>th</sup> Dec 1837
Forfeited		21 <sup>st</sup> Mch 1798
Walker, Rev <sup>d</sup> Dr	Free House, Dussart, 3 Topham Street	5 Feb 1891
Walker, D Thomas	son of above	19 Nov 1891

# CASS 6 – Custody rules

## Custody Record Keeping, record checks and reconciliations

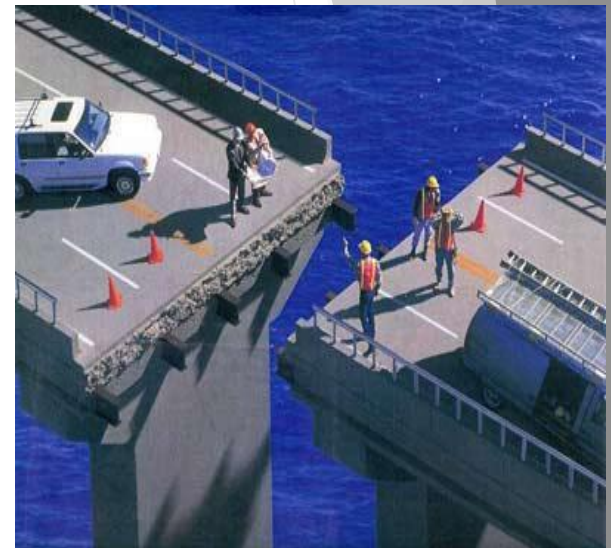
- Internal custody record checks - at least monthly/matched to pricing
- Two methods of internal custody record checks
- ICRM – compare two records aka as a ‘reconciliation’
- ISEM – data not separately maintained
  - Completeness of information and records
  - Systems to identify and resolve all discrepancies
  - Readily determine the clients assets
- External reconciliations at least monthly – match this to statement frequency



# CASS 6 – Custody rules

## Handling shortfalls

- Fund shortfall where you are responsible
- Make good with own assets (but not necessarily the same as shortfall) or own money
- Revisit where different assets or money used – mark to market





# CASS 6/7 – Custody Rules & Client Money

## Record Keeping and notification

- Rules generally aligned with MiFID i.e. 5 years
- Make and retain copies of reconciliation
- Materiality test for notification
  - Firms own policy
  - Case by case
  - TA to report all incidents
- Firm to ensure records of policies and decisions
  - Each review undertaken
  - Materiality thresholds
  - Client specific records

# CASS 7 – Client Money

## DVP exclusion for Commercial Settlement Systems

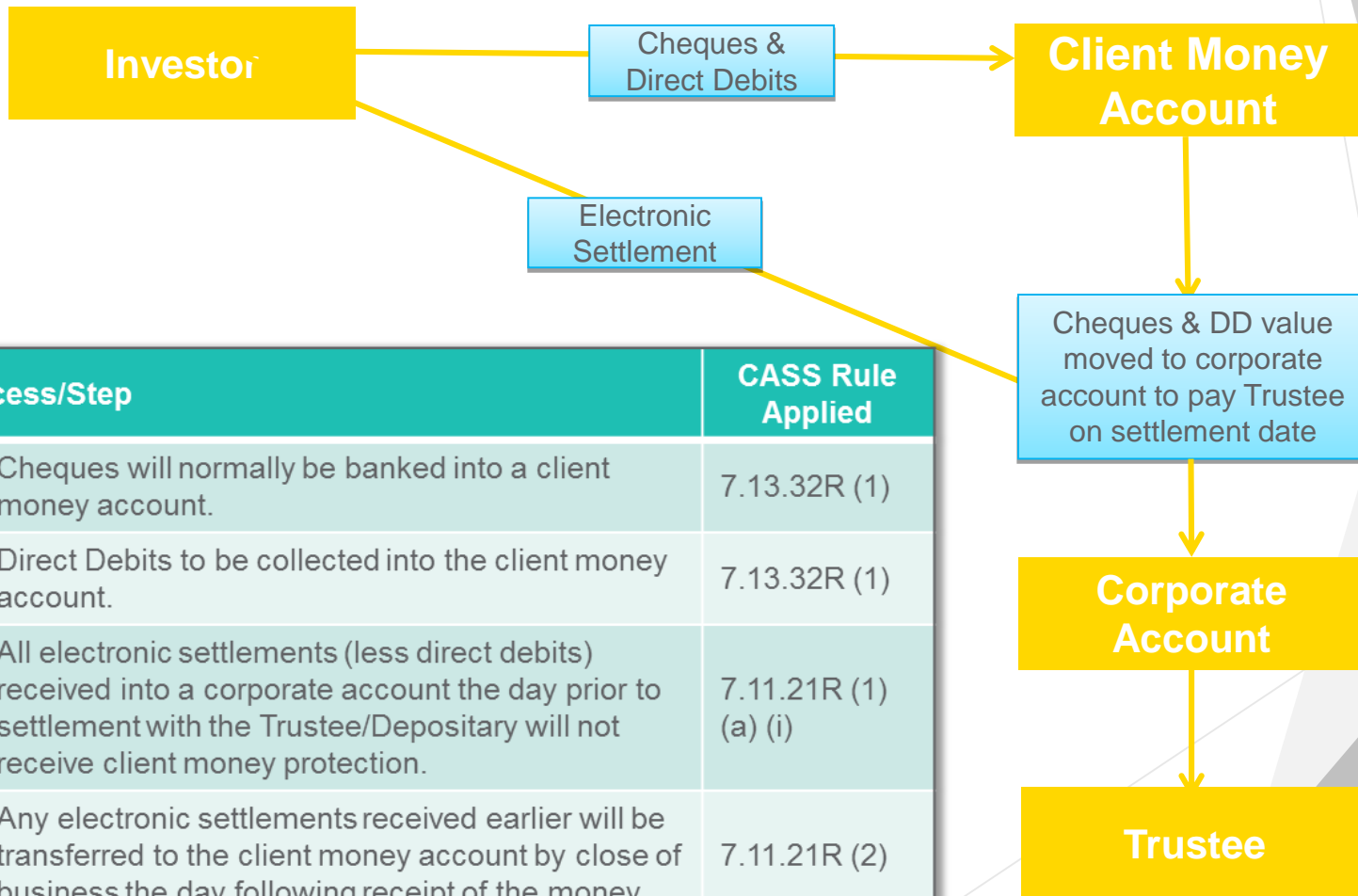
- DVP transaction through a CSS
- Crest confirmed meet criteria as CSS (e.g. UK equities/gilts)
- Crest to confirm if extends to Funds
- CTN – seeking confirmation
- Clearstream – seeking confirmation



# CASS 7 – Client Money

## DVP exclusion for collective investment schemes

### 24 hour Collective Investment Scheme (CIS) Window – Subscriptions

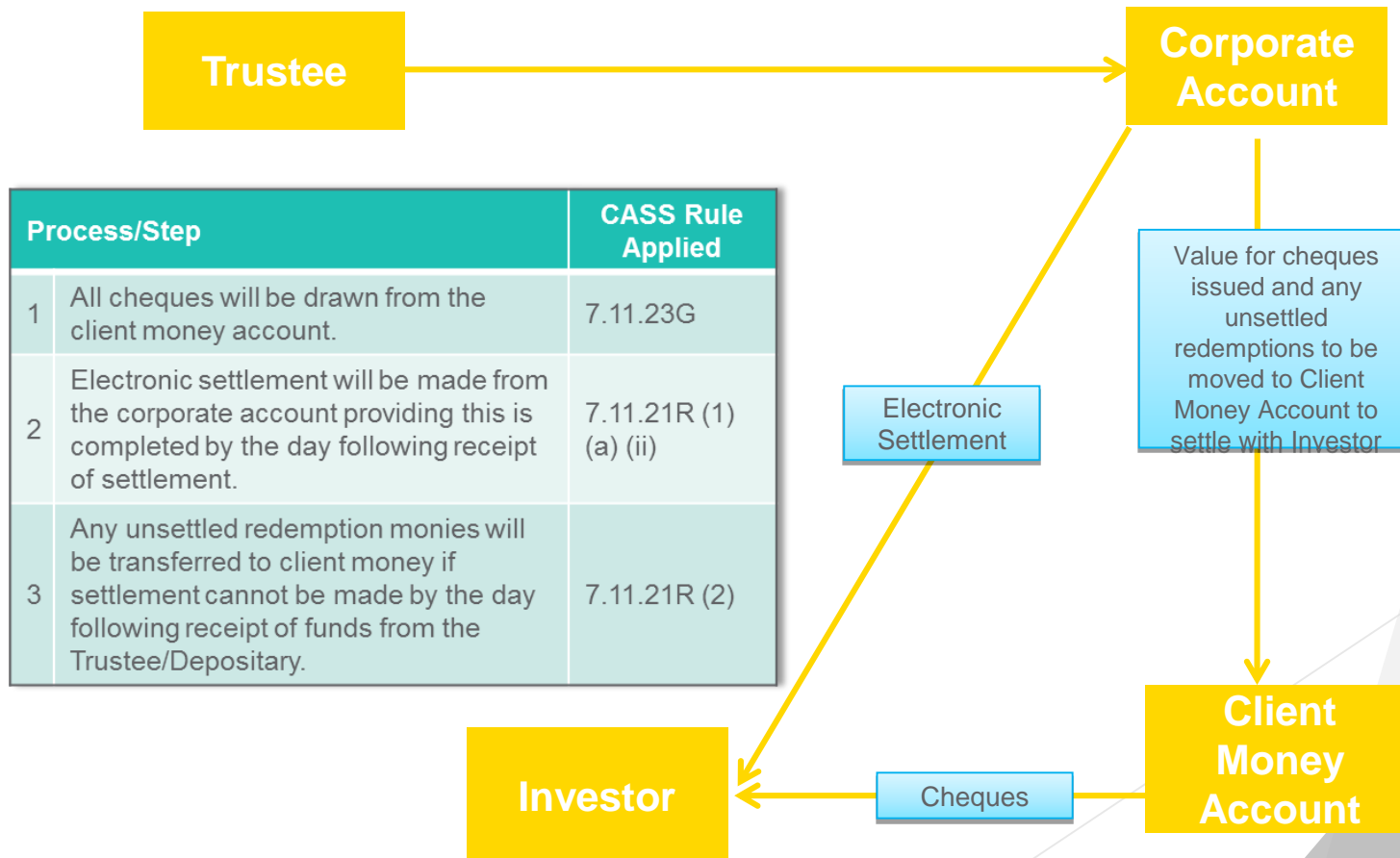


Process/Step		CASS Rule Applied
1	Cheques will normally be banked into a client money account.	7.13.32R (1)
2	Direct Debits to be collected into the client money account.	7.13.32R (1)
3	All electronic settlements (less direct debits) received into a corporate account the day prior to settlement with the Trustee/Depositary will not receive client money protection.	7.11.21R (1) (a) (i)
4	Any electronic settlements received earlier will be transferred to the client money account by close of business the day following receipt of the money.	7.11.21R (2)

# CASS 7 – Client Money

## DVP exclusion for collective investment schemes

### 24 hour Collective Investment Scheme (CIS) Window – Redemptions



# CASS 7 – Client Money

## DVP Collective Investment Schemes

- All cheques banked into a Client Money bank account
- Electronic receipts on/after settlement date into a non-Client Money bank account
- Unidentified electronic receipts protected in a Client Money bank account
- BACS direct debit collections to be collected into a Client Money bank account
- Cheque redemption payments to be made from a Client Money bank account
- Electronic redemption paid from a non-Client Money bank account on settlement date
- Switches with varied settlement dates to have Client Money treatment
- A non-Client Money bank account can be utilised for market settlement (to or from a trustee for example).

# CASS 7 – Client Money

## Cleared funds

- One client's money should not be used to fund another's business
- Use organisational arrangements to minimise the risk of using one client's money to pay another on an intraday basis.
- It is not possible to control intraday movements – banks determine priority order
- Intra-day funding risks will need to be identified and quantified
- Suitable organisational arrangements to minimise the risks
- If such arrangements are not considered appropriate, intra-day funding will need to be considered.
- Any confirmed shortfalls will require funding by close of business on the day of the shortfall.

# CASS 7 – Client Money

## Record keeping and reconciliations

- Default is the internal client money reconciliation (a ‘standard method’)
- A firm may undertake a non-standard method
- Firms must confirm to the TA
  - they endorse the method of internal reconciliation being undertaken
  - complete an annual review of frequency of external reconciliations
  - complete a general overview of procedures and documentation relevant to this process

# CASS 9 – Information to clients

## Information on safeguarding client assets

- Provide a statement on an annual basis – or ad hoc as requested
- Ensure that it is clear from the statement if protected under either or both custody and client money rules
- All items on the client money reconciliation must be reported on the statement





**Ash Saluja**  
**Partner**  
**CMS Cameron McKenna**

**Authorised fund managers and the  
DVP exemption**



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# The exemption

- Under CASS 7.2.8B, money need not be treated as client money in respect of a delivery versus payment transaction, for the purpose of settling a transaction in relation to units in a regulated collective investment scheme, if:
  - the authorised fund manager (AFM) receives it from a client in relation to the AFM's obligation to issue units... or to arrange for the issue of units... in accordance with COLL; or
  - the money is held in the course of redeeming units where the proceeds of that redemption are paid to a client within the time specified in COLL (i.e. cash transferred or cheque issued to client by T+4)
- Most AFMs do not need to think about whether they hold client money or not as the exemption applies to the full dealing cycle – no need for money to be segregated into a client money bank account in the ordinary course of transactions carried out in accordance with COLL



# The problem

- Removal of this DVP exemption was proposed by the FCA in CP13/5
  - what happens to money if DVP transaction fails to settle in time?
  - more importantly, what happens if firm becomes insolvent before transaction has settled?
- Industry concerns raised in response
  - AFMs would be expected to adopt the normal approach to segregation – effectively means that AFMs need to receive subscription monies into and pay redemption proceeds out of a client money bank account only
  - liquidity issues for AFMs as currently redemption proceeds paid to investors are funded temporarily by new subscriptions/uncashed redemption cheques
  - what about AFMs who deal as principal using a manager's box – is it client money if money is received for existing units in issue that are “sold” to the investor rather than issued specifically on subscription?

# The compromise

- Following a huge lobbying effort by the industry, the FCA proposed a compromise in PS14/9
- DVP exemption remains but narrowed under CASS 7.11.21R
  - if the AFM has not, by close of business on the business day following the date of receipt of the subscription or redemption money, paid this money to the depositary, the fund, or to the client, the AFM must stop using the DVP exemption for that transaction (i.e. the money must then be transferred to a client money bank account)
- Seems to address some of the liquidity concerns
- However, the FCA clearly does not like the exemption due to the (perceived) risks raised – it could disappear in the future

# The remaining concerns

- Still the implication under the revised exemption that the AFM is dealing as agent (i.e. issue and redemption of units) rather than dealing as principal (i.e. sale and purchase of units)
- FCA ducked the questions raised on AFMs dealing as principal following CP13/5 in its response in PS14/9
  - ***“It is for AFMs to assess on the basis of their business models and relevant client money rules when their activities are subject to the client money rules...Where an AFM is carrying out principal or other transactions for its clients and the client is legally entitled to a unit(s) in a regulated collective investment scheme either before or when the AFM receives money from the client, the money may not be client money under the client money rules as the money is owed to the AFM on receipt. However, firms must assess their own business models against the client money rules.”***
- Principle 10 still requires firms to provide adequate protection for client assets – AFMs need to think about the broader risk to clients of their insolvency, as well as whether/when they hold client money.

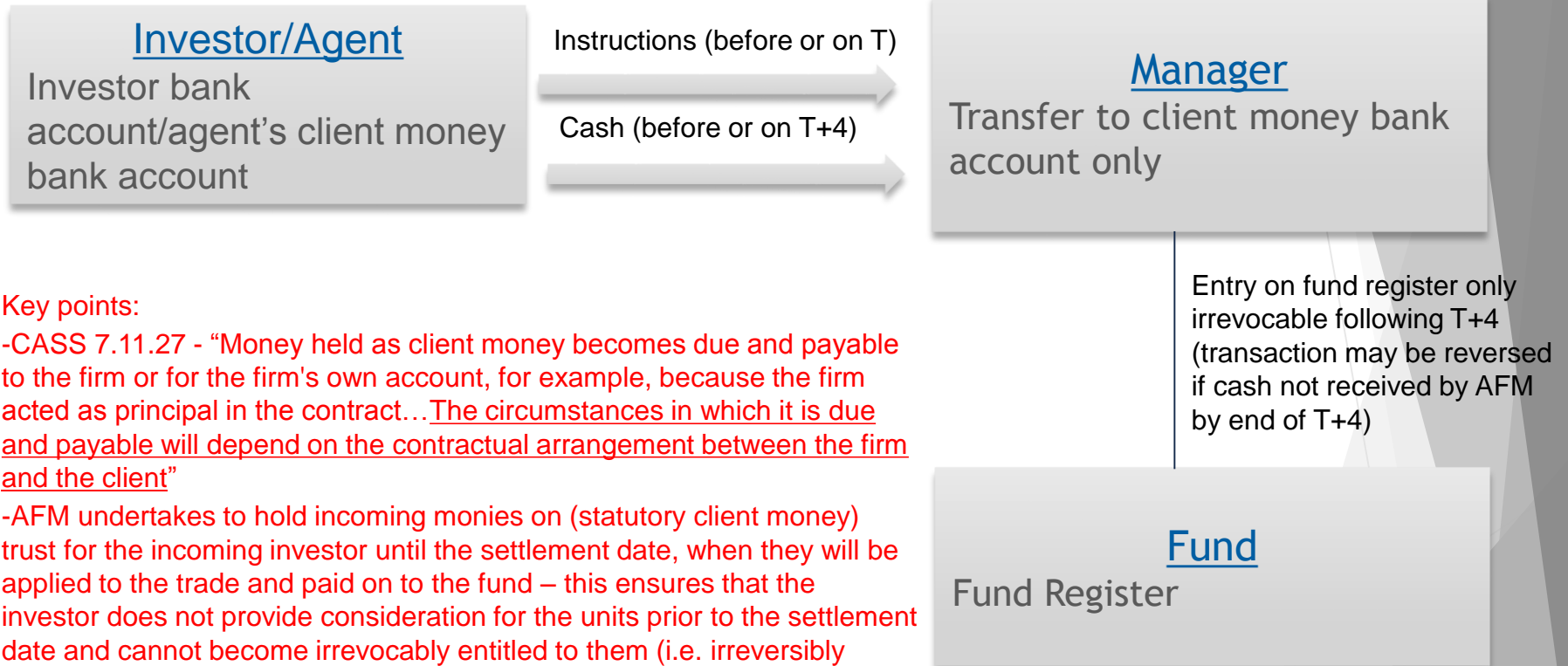
# Our solution

- With industry involvement, CMS put together a high level paper on a potential solution for AFMs dealing as principal who want to adopt a “full” client money model.
- Redemption proceeds and subscription monies held by an AFM (regardless of whether or not they deal as principal) would always be held as client money under CASS and segregated into a client money bank account.

# What do you need to do?

- Fund documentation and contractual terms with investors must provide that:-
  - for subscriptions – the AFM is required to hold any cash which it receives prior to the settlement date as client money (held for the investors) until the settlement date at which time it is passed to the fund/depositary.
  - for redemptions – an investor’s contractual entitlement to receive the beneficial interest in the proceeds arises at the same time as the AFM receives monies from the fund/depositary (note COLL implies that investors must be paid regardless of whether the AFM has been paid by the fund/depositary).
  - the fund has no contractual entitlement to receive incoming cash or have it segregated as client money ahead of the settlement date.

# Analysis of investor purchases through a manager's box



## Key points:

-CASS 7.11.27 - "Money held as client money becomes due and payable to the firm or for the firm's own account, for example, because the firm acted as principal in the contract... The circumstances in which it is due and payable will depend on the contractual arrangement between the firm and the client"

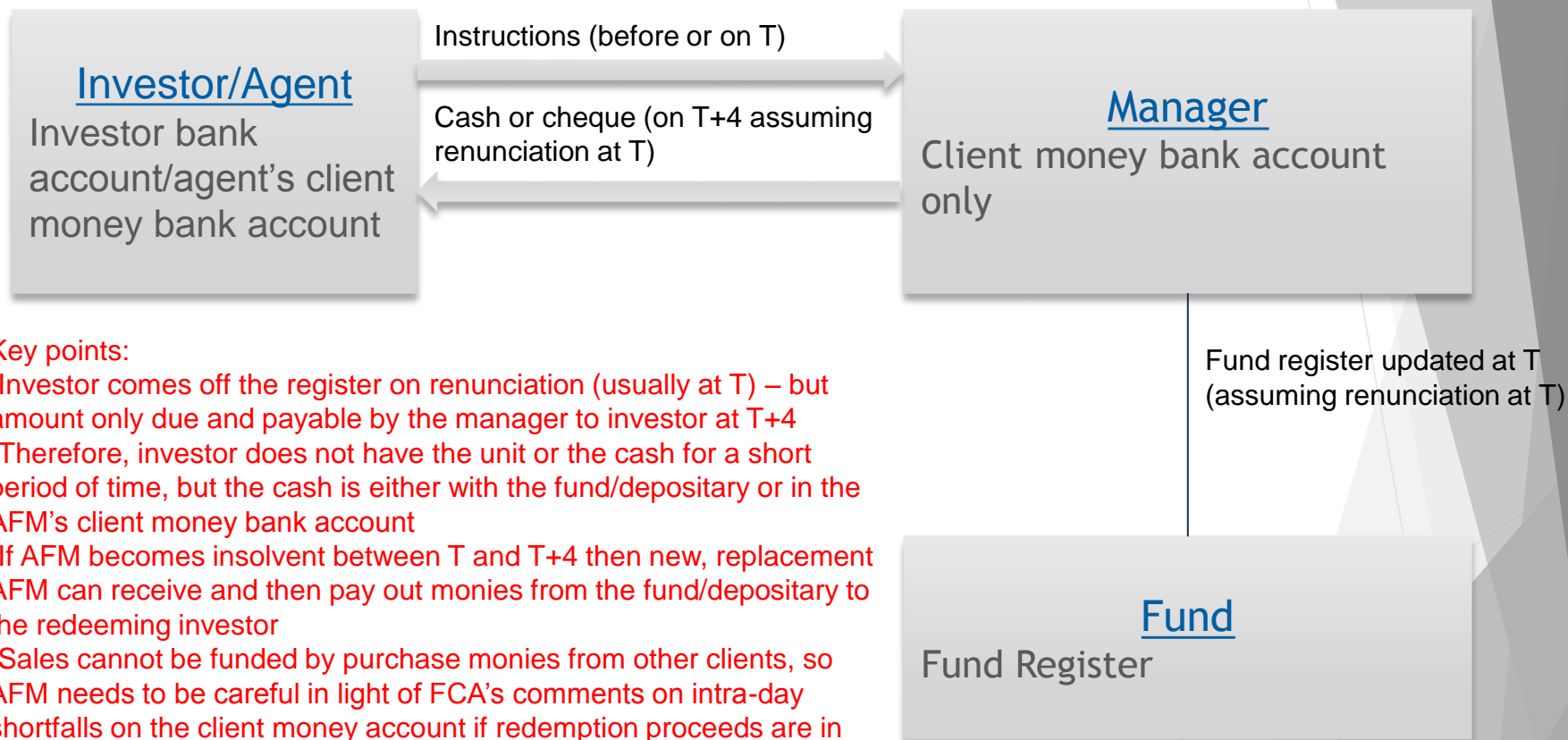
-AFM undertakes to hold incoming monies on (statutory client money) trust for the incoming investor until the settlement date, when they will be applied to the trade and paid on to the fund – this ensures that the investor does not provide consideration for the units prior to the settlement date and cannot become irrevocably entitled to them (i.e. irreversibly entered on the unitholder register) before this point

-No Principle 10 concern for purchasing client as cash is either with the client/its agent's client money account or in AFM's client money account, or the client/its agent has the unit irrevocably

-Fund not exposed to AFM insolvency prior to settlement as register may be reversed if cash is not received for any newly issued units



# Analysis of investor sales through a manager's box



## Key points:

- Investor comes off the register on renunciation (usually at T) – but amount only due and payable by the manager to investor at T+4
- Therefore, investor does not have the unit or the cash for a short period of time, but the cash is either with the fund/depositary or in the AFM's client money bank account
- If AFM becomes insolvent between T and T+4 then new, replacement AFM can receive and then pay out monies from the fund/depositary to the redeeming investor
- Sales cannot be funded by purchase monies from other clients, so AFM needs to be careful in light of FCA's comments on intra-day shortfalls on the client money account if redemption proceeds are in fact paid out before receipt of monies from the fund/depositary

## In summary

- AFMs that follow this approach would ensure that
  - incoming monies received from investors for subscriptions are provided with client money protection (as client money held for those investors) until the settlement date
  - redemption monies are provided with client money protection from the point of receipt from the fund/depositary until the investor has received value
  - both the investor and the fund (even if not a client) are protected at all times
- Would not solve the liquidity issue if firms choose to send out redemption proceeds to investors prior to receipt of funds from the fund/depositary – need to consider the intra-day issues raised by the FCA and/or use another solution which may or may not make use of the DVP exemption
- There are other routes that may be adopted– this is just one suggested approach

# Q&A Panel



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# Q&A Panel

Panel comprising of:-

- Paul Mitchell – BNY Mellon (Chair of TA Forum CASS working group)
- Rob Anderson – PwC
- Andrew Henderson – Eversheds
- Andy Tamlyn - Northern Trust
- Steven Latto – Aberdeen Asset Management
- Ash Saluja – CMS Cameron McKenna
- Martin Digweed – IFDS



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# Important Information

This document has been compiled for the use of TA Forum members and their clients only and is for guidance purposes.

The best practice statements referred to within this presentation have 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. It is the regulated firm's responsibility to comply with the client money rules.



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**Thank You**

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