



Summary of Response re: CASS 7A & the Special Administration Regime Review DP16/2

Q11: Do you consider that additional information about how a product is structured would assist the administrator and the FSCS in the event of a firm's insolvency? If introduced, what should this include and should any exclusions apply?

We agree that the inclusion of additional information at a product level and within the CASS RP would be helpful to the Administrator and the FSCS, but due to the complexities already pointed out within the discussion paper, it could be misleading to show anything more detailed than the product is considered to constitute "designated investment business".

Q13: Do you consider that firms should provide more clarity to clients around whether a firm's activities may or may not be covered by the FSCS?

Q14: Is the client statement the best place to provide this and what should this comprise? If not, how else could firms communicate this information to clients and what barriers exist to doing so?

As mentioned in 4.31, due to the complexities around the eligibility for FSCS compensation any information provided by firms would be restricted to that of a general nature, although it may be beneficial to a client to make clear the definition of money reported in relation to investment business, and the maximum FSCS protection available, and the maximum FSCS protection available for cash deposits (as they are different). Investors should, however, be encouraged to contact the FSCS for further details. Inclusion of this general information within the client statement may be of help to the investor, as in the event of insolvency they would be likely to review any documentation they had already received when seeking information. However, this information should also be provided within a firm's Terms and Conditions and any other information supplied to investors at the point of investing.

Q16: Do you agree with these proposed additions? Is there any other information that you think should be added to a CASS RP to assist Administrators and the FSCS to achieve speedy return or transfer of client assets, and prompt payment of FSCS compensation where due?

The information proposed should already be available within existing documentation, prospectuses, etc. some of which would already form part of the CASS RP, for example firm procedural information relating to the models that are being operated, such as use of the DvP exemption or the treatment of shortfalls. Where this information is not currently included it would be beneficial to do so.

Q17: Do you agree that the detailed explanation of client statements would be a proportionate addition to the CASS RP? If not, please provide reasons why, and any suggestions as to how we could approach this differently.

Q18: Do you agree that clients and administrators should receive the same explanation of client statements? If not, please provide reasons why, and any suggestions as to how we could approach this differently.



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Q19: Do you agree that a firm could provide this explanation in the client statements themselves and/or on its website? If not, please provide reasons why, and any suggestions as to how we could approach this differently.

The way that a statement is presented should already be available via existing procedural documents, which would be available to the Administrator. Although we do not disagree with a detailed explanation being available, we would need clarity on specifically what would need to be included as updates to statements and the inclusion of certain information were made within the recent rule changes implemented by PS14/9.

Q20: Do you consider that any changes are necessary to either the client money rules or the client money distribution rules to facilitate this proposal?

We would agree with the adoption of this proposal, and that it should extend not just to firms that use the alternative approach but also to firms using the normal approach where there is a clear shortfall on completion of the final client money reconciliation. Will this ability for the Administrator to move money from the firm's account extend to items identified as client money residing in the firm's account that have not been reflected within the client money books and records? This would not create a shortfall within the client money account but would nevertheless require immediate client money protection. The CASS rules already allow for this under normal practice, but does insolvency law need to be changed to facilitate this without the need for court approval rather than changes to the CASS rules?

Q23: Should firms be encouraged to segregate a prudent margin in respect of administration costs? If not, please provide reasons why, and any suggestions as to how we could approach this differently.

We do not support this proposal as this would create further complexity and risk within the firm's client money reconciliation.

The firm's Terms & Conditions should provide investors with clear information as to what would happen in the event of insolvency in order to make an informed investment decision. In addition the ICAAP should already be performing the role of identifying when a firm should no longer trade because remaining cash is needed for administration costs. Firms should, therefore, use their ICAAP rather than a prudently segregated margin.

Q24: What types of data can be standardised to facilitate distribution of the client estate?

We do not support this proposal as we would consider that the existing records provide adequate and clear information in relation to on-going transactions. We would be happy to comment further on specific examples.

Q25: Which of the above proposed options for the treatment of interest would be preferable? And how should these be apportioned and paid out?

A firm's treatment of interest is disclosed within its Terms & Conditions at the point of investment. Where it is stated that investors will not receive any monies in respect of interest earned on client money balances held, we would expect this to continue post administration, particularly as it is common for any interest earned on client money accounts to be received directly into the firms' own bank accounts.



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Q27: Do you agree with our proposed treatment of unclaimed client monies? If not, please provide reasons why, and any suggestions as to how we could approach this differently.

Q28: Do you consider that an equivalent provision for unclaimed assets would be beneficial? If not, please provide reasons why, and any suggestions as to how we could approach this differently.

We support the proposal to use allocated but unclaimed client money balances over six years old in this way. Is it expected to include “unidentified” legacy balances in this proposal, where the beneficial owner could not be identified? Also, we assume the proposed bar date mechanism means that certain unclaimed assets would be included by default.

We would not oppose a similar proposal for unclaimed assets, although we would need clarity on what would be expected for unclaimed assets to comment any further.

Q29: Do you agree with the proposed treatment of de minimis client money entitlements? What minimum steps are proportionate and how should these be tiered?

Q30: Should this proposed rule include claimed de minimis balances where these are uneconomic to distribute and if so, what minimum level should this be set at?

Although we are broadly supportive of these proposals, we do not believe that the CASS RP should become so detailed in its scope that it starts to replace the underlying information, such as a firm’s procedures and the systems that client data originates from. The CASS RP should be a guide to the firm’s business, its procedures, systems, data and controls assist an administrator in achieving the timely return of client assets.