



QUARTERLY CONSULTATION NO. 8

CHAPTER 2. MINOR AMENDMENTS TO CASS AND CONC

ICAEW welcomes the opportunity to comment on the Quarterly Consultation No.8 *Chapter 2. Minor Amendments to CASS and CONC* published by Financial Conduct Authority on 6 March 2015, a copy of which is available from this [link](#). We want to emphasise that this response is only to comment on Chapter 2 of the Quarterly Consultation Paper.

This response of 2 April 2015 has been prepared on behalf of ICAEW by the Financial Services Faculty. As a leading centre for thought leadership on financial services, the Faculty brings together different interests and is responsible for representations on behalf of ICAEW on governance, regulation, risk management, auditing and reporting issues facing the financial services sector. The Faculty draws on the expertise of its members and more than 25,000 ICAEW members involved in financial services.

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MAJOR POINTS

1. The publication of PS14/9: *Review of the client asset regime for investment business* in June 2014 and subsequent phased introduction of new requirements, represents a significant change in the CASS requirements. This is consistent with the FCA's objectives of securing an appropriate degree of protection for consumers and enhancing the integrity of the UK financial system. We continue to welcome the FCA's ongoing work to evolve the regulation of client assets and encourage the FCA to continue to assess the effectiveness of these requirements and make adjustments where necessary.
2. There are a number of areas within the existing CASS requirements and PS14/9 changes where both regulated firms and their auditors are currently seeking clarification from the FCA. We welcome the continued focus from the regulator in this area and encourage the FCA to consult on further changes to improve and clarify the CASS rules.
3. We agree with the proposed changes in respect of the CASS requirements except in relation to the proposed relaxation of the requirements in respect of the registration arrangements. On the whole we believe that the proposed amendments are proportionate and will bring additional clarity in the specific areas to which they pertain.
4. In respect of the proposals to relax the requirements for firms over the registration of title for client's safe custody assets deposited with third parties, we are concerned that this will erode customer protection and lead to increased numbers of client's safe custody assets being registered in the name of entities other than nominees where such assets are deposited with third parties.

RESPONSES TO SPECIFIC QUESTIONS

Q2.1: Do you agree with this proposal to allow CASS 6 firms to perform external custody reconciliations against certain third parties' system records relating to Irish, Jersey, Guernsey and Isle of Man securities?

5. We agree with this amendment for these specific off-shore jurisdictions.

Q2.2: Do you agree with our proposal relating to registration and recording of legal title to client assets?

6. No, we do not agree with the proposal. The proposed amendment increases the risk that a client's safe custody asset may be registered (by the third party with whom the assets have been deposited) in the name of a third party which is not a nominee company but without the additional protections afforded by CASS 6.2.3R (3). We would encourage the FCA to more clearly set out their rationale behind this proposed amendment and consider whether this leads to unintended consequences including the increased risk of consumer detriment in an insolvency scenario. Unless it is made explicit that the requirements in CASS 6.3.4(B) (3) are required to be followed closely it might not be clear that although the firm does not affect the registration it still has the obligation to require that third party to record and register the assets in accordance with CASS 6.2.3 R.

Q2.3: Do you agree with our proposal regarding client money segregation for certain regulated clearing arrangements?

7. We agree. This amendment will accommodate the circumstances where a firm occasionally receives money from certain CCPs that is wholly client money into a single house account.
8. We believe that the FCA should consider whether further clarification is required to assist firms in understanding the differing requirements under CASS and EMIR in respect of segregation at CCPs – for example in respect of TTCA.

Q2.4: Do you agree with our proposal relating to the DvP rules for regulated collective investment schemes?

9. We agree. We welcome the additional clarity that this will bring. As the change will enable certain authorised fund managers to operate single models for cash transfers rather than forcing duplicate arrangements or pre-funding requirements, we believe that this will both reduce the costs and additional operational risks associated with duplication.

Q2.5: Do you agree that the proposed wording has the intended legal effect regarding the constitution of the general client money pool?

10. We are not able to comment on the legal effect of the proposed change and would defer to a legal analysis.

Q2.6: Do you agree with our proposal to ensure that CASS applies as stated in PS14/4?

11. We agree. This is a helpful clarification to loan-based crowd-funding firms and should help firms in that sector understand their obligations.