TISA

CASS COMPLIANCE SURVEY

Survey results and summary report

OCTOBER 2024

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SUMMARY

TISA conducted this survey in partnership with fscom, with the aim of gathering insights about key areas of interest related to compliance and challenges of CASS. The findings are essential to TISA's ongoing work with the FCA regarding CASS compliance. The survey received 105 responses from a range of CASS firms of varying sizes. The following report summarises the survey questions that were asked and the corresponding research results and findings in infographic form, including any standout commentary from our respondents.

"The survey results indicate that there continues to be evolving and inconsistent interpretations of certain areas of the handbook, exacerbated by the changing regulatory and technological landscape. We would like to see a focus on how CASS can remain fit for purpose."

Lisa Laybourn, Policy Director, TISA

"The survey results indicated demand from firms requiring more specific guidance across handbook areas and a number of requests for audit consistency and clarity alongside. These are subjects that may benefit from further focus to help mitigate any residual challenges."

Julie Tuffrey, CASS Expert, fscom

N.B. All quotes featured in the survey results are from participating firms and are not the views of TISA or fscom.

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Q1. What size of CASS firm are you?

4% small

72% medium

24% large

Q2. How do you currently handle interest earned on client money deposits?

22%

We do not pass on any interest to clients

15%

We pass on interest in full and credit to client accounts

43%

We pass on partial interest

20%

Other

"We use interest to pay for tracing gone away so it is earmarked and not taken as profit."

"We neither receive interest on client money nor pay interest on client money."

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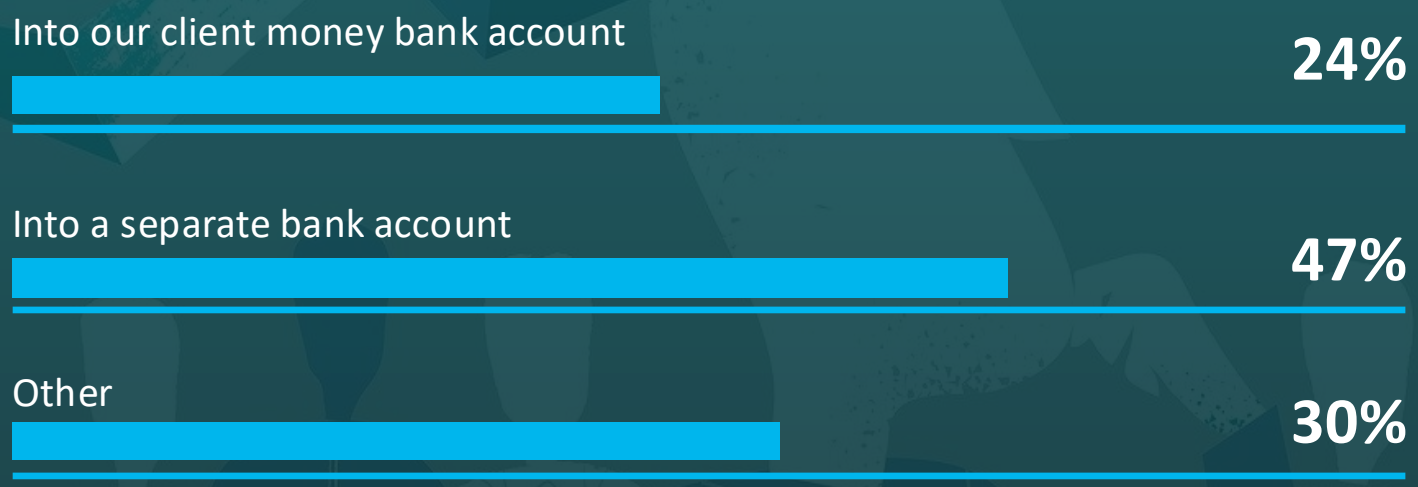
Q3. Where do you receive interest?



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"Both depending on the banks systems."

"Into firm account."

"A combination of receipts into client bank accounts and firm bank accounts."

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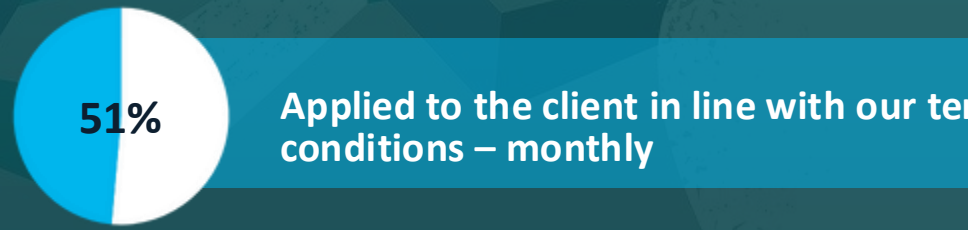
Q4. When do you apply interest?



51% Applied to the client in line with our terms and conditions – monthly

2% More frequently than monthly but not daily

47% Other

"Quarterly in line with T&Cs."

"We retain the interest."

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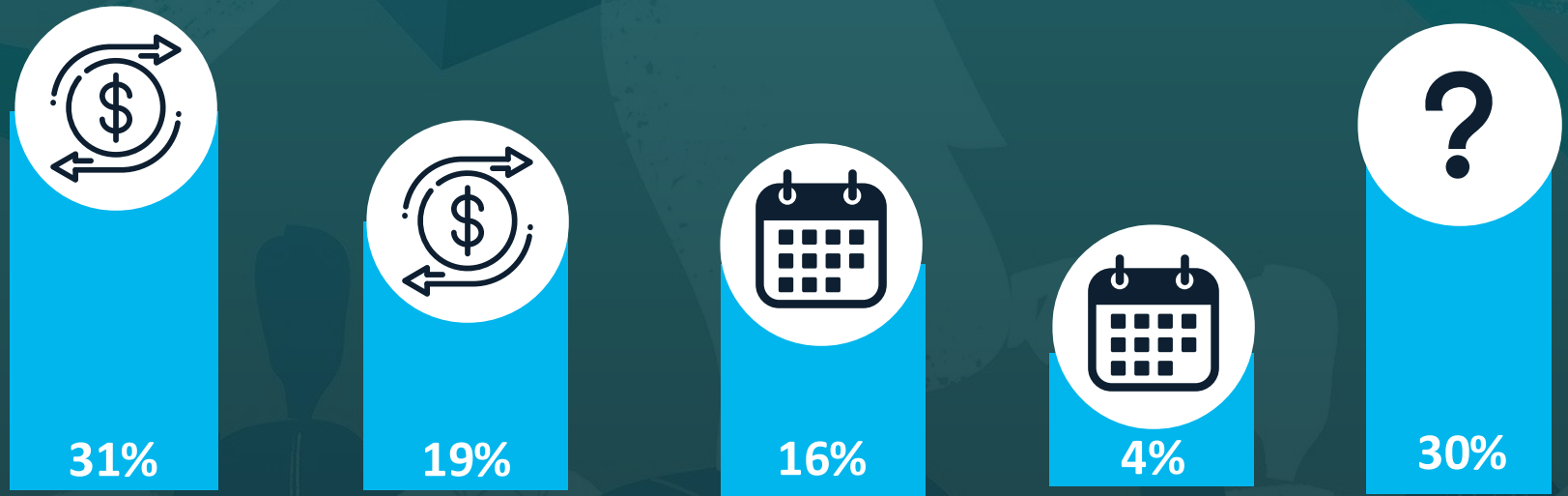
Q5. When fees are due to your firm, how do you manage this?



31%

1) Firm's money is removed from client money bank account – monthly

19%

2) Fees are paid to a separate firm's account automatically – any funds due to the client are paid – monthly

16%

As option 1 above but processed more frequently than monthly

4%

As option 2 above but processed more frequently than monthly.

30%

Other

"Dealing charges and account closure charges are taken automatically on an ad-hoc basis. Custody charges are taken quarterly."

"Fees are paid from the designated non client account."

"No fees are charged directly but through the funds the investor holds."

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Q6. Have you faced any challenges with the current practices of handling interest earned on client money deposits?

Yes 25%

No 75%

"

"Change in auditor interpretation. Previously, the temporary receipt of interest into the client money pool with the removal in a timely manner (usually the same day) was deemed compliant.

"The Banks are not good at following instructions to not pay interest into the client money account. That creates a CASS breach risk for us."

"Lack of regulatory guidance."

"Lack of clarity of how interest should be handled where multiple banks accounts are used with varying rates. Therefore, a derived rate is given to clients. Not direct pass through."

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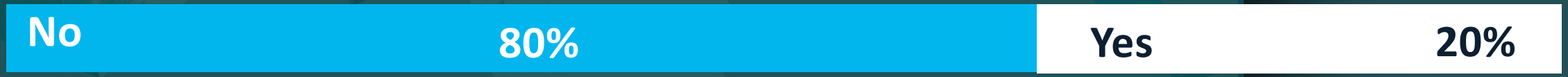
Q7. Have your auditors raised any issues regarding the handling of interest on client money deposits?



"They challenged us receiving the interest into a client money bank account when it wasn't immediately due and payable."

"Raised in the 2022 audit that interest received into client money, but swept to managers the following day was in breach. This was deemed to be acceptable in previous years."

"Not all banks are able to direct interest into corporate bank accounts - the auditor interprets this as co-mingling of client money and non-client money."

"Their view is that its not a straight pass through and some is retained then money should be paid to the firm and not treated as mixed remittance."

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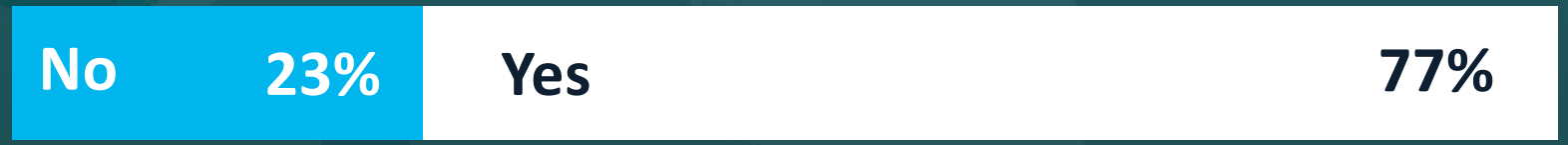
Q8. Do you find the FCA's guidance on handling interest on client money deposits clear and sufficient?



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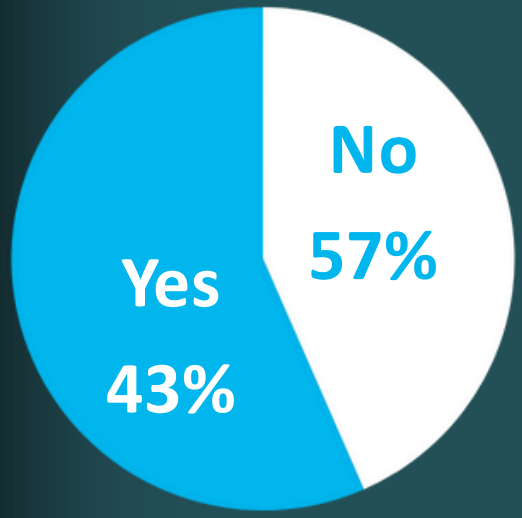
"Not sufficient guidance."

"It would be clearer if the FCA set some parameters as, for example, apply to law firms."

"There is a degree of judgment applied by the industry to define when it is due and payable and how explicit it has to be in T&Cs."

"Changes to the rules/guidance would be helpful to confirm the timely removal as part of the firm's reconciliation process would be deemed compliant."

Q9. Do you use Payment Service Providers (PSPs) for client money transactions?



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Q10. Have you encountered any compliance challenges related to the use of PSPs?

"Breached for using debit/credit card payment service provider"

"Auditor has raised a breach CASS 7.13.6 R."

"PSP holding client deposits before paying to client money account."

"Auditors now consider a breach of normal approach."

"We received a breach on our 2023 external CASS audit due to the fact we are not receiving client money directly into a client money bank account as per the Normal approach requirements"

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Q11. Have you noticed differing interpretations of CASS compliance when using PSPs across the industry?

Yes

40%

"It should be clear cut what can and can't be done, who is responsible and how to overcome the issue."

"Audit firms have differing opinions on whether you can use a PSP compliantly or not."

No

60%

"Some audit firms breach others don't, the main issue is the FCA not refuting in writing their stance taken during PS14/9 where they stated it wasn't a breach."

"Until recently, our auditor did not consider this to be a CASS breach - this is changing for this CASS year."

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Q12. Do you believe the FCA should provide more specific guidance on the use of PSPs in relation to CASS compliance?

Yes	77%	No	23%

Q13. Please expand on your last answer

YES

- *"How the FCA expects firms to deal with this new guidance rather than regulating through audit firms."*
- *"Clear rules and guidance around PSPs will help. Currently some auditors are breaching, and others are comfortable given Prudent Seg is used."*
- *"PSPs should themselves be regulated rather than moving the burden to the investment industry without the ability to directly resolve what is now perceived as a breach whilst maintaining good client outcome."*
- *"Within the spirit of consumer duty, the regulator(s) can advise on distribution thresholds on how much a firm can retain and how much should be passed on."*
- *"Clarification when CASS applies and cross over with Safeguarding rules."*

NO

- *"Guidance on expectations re mitigation activities given the breaches cannot be closed without preventing clients paying by debit cards which is not in clients' best interest."*
- *"How can we use PSPs and be CASS compliant."*
- *"Specific rules and guidance on the use of PSPs under CASS 7 and 8, including guidance around due diligence."*
- *"Guidance in how a PSP relationship ought to be structured so as to adequately protect client money."*

Most respondents that answered no did so because the question was not applicable to them as they did not use PSPs.

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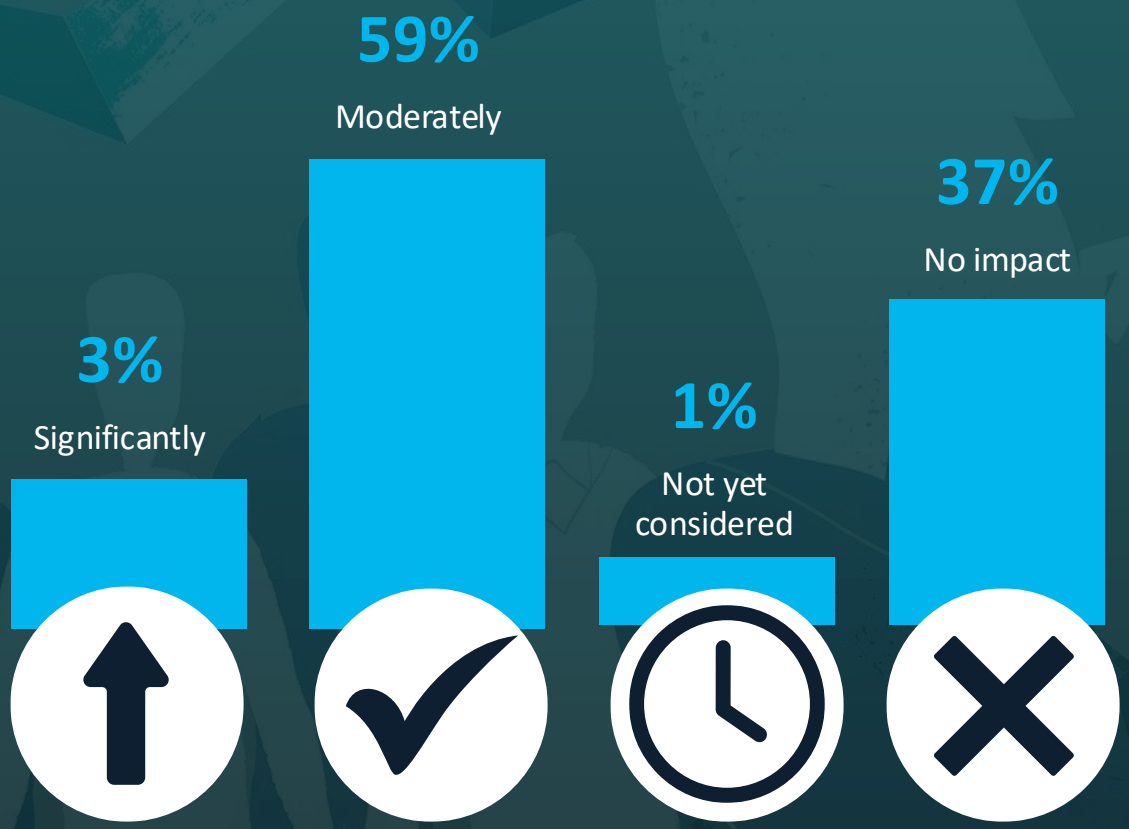
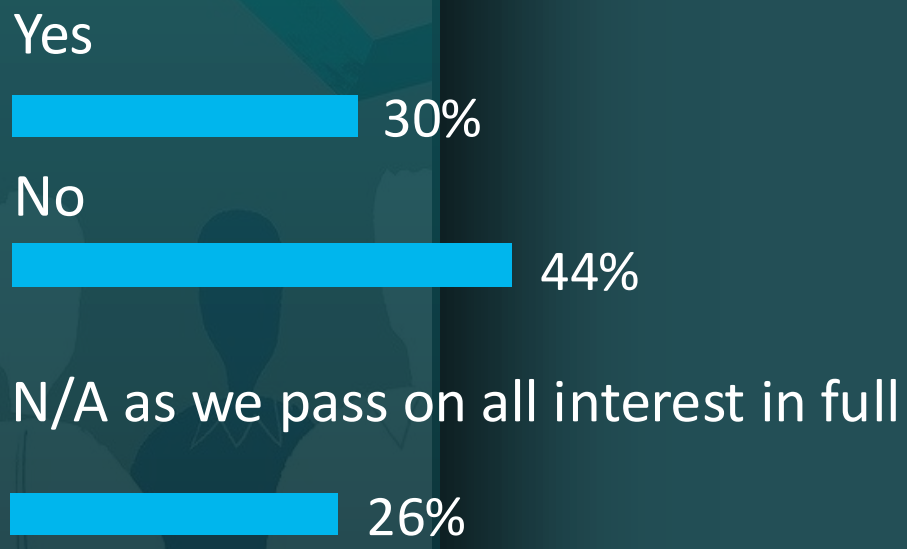
Q14. How has the introduction of Consumer Duty impacted your CASS compliance processes?



Q15. If you retain any interest, have you disclosed that as a fee under Consumer Duty?



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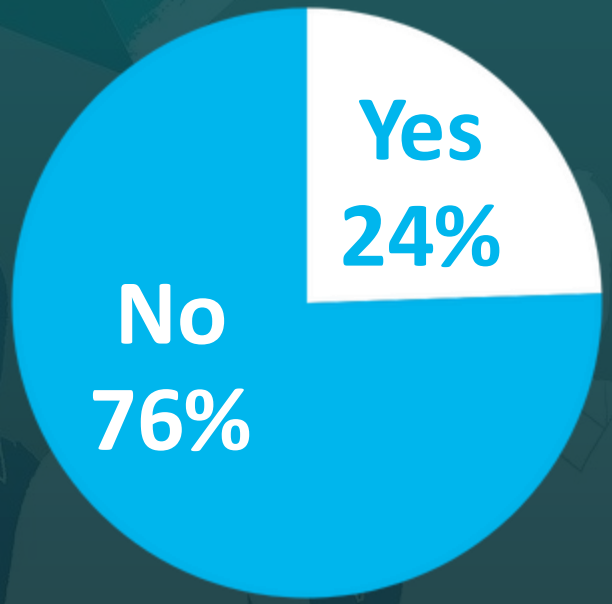
Q16. Can you foresee any issues with the FCA's stance on double dipping (retaining earned interest while also charging fees)?



"There is a need for a more holistic approach and consider the customer journey as a whole and how the whole fee package provides fair value."

"This requires significant technology change to comply with the FCA's guidance on double dipping. Platform fee structures will be impacted."

"Some firms will need to make significant changes that will reduce commercial appeal."

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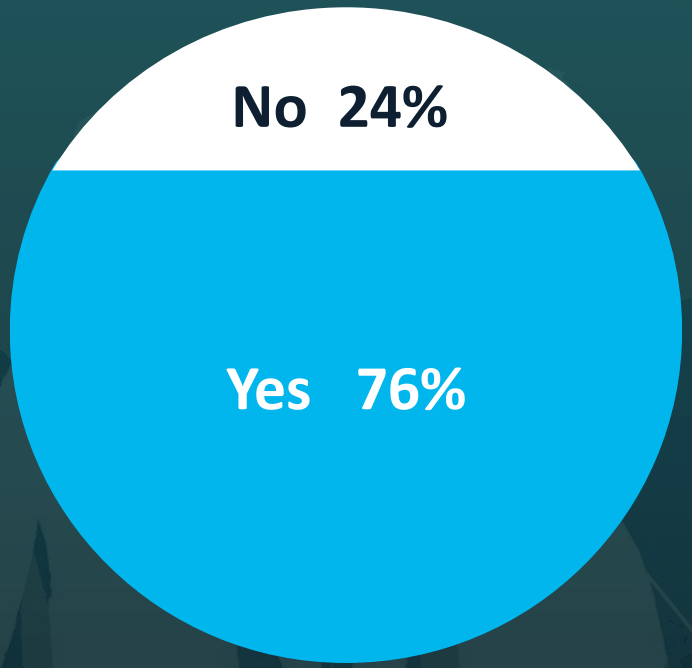
Q17. Do you think there is a need for additional guidance from the FCA on how Consumer Duty intersects with CASS compliance?



"CASS only applies to MiFID investment firms who deal only with professional clients and not Retail or Consumers."

"There are a number of conflicts, such as PSP usage that need resolution urgently."

"The CASS rules are clear, Consumer Duty is clear - disclose the interest retained, customer is aware and agrees to the terms and conditions or takes another product/uses another provider."

"They should be kept distinct and the FCA should supervise them independently. A consumer duty breach should never be considered a CASS breach."

"Consumer Duty is clear in itself, can see limited overlap with CASS."

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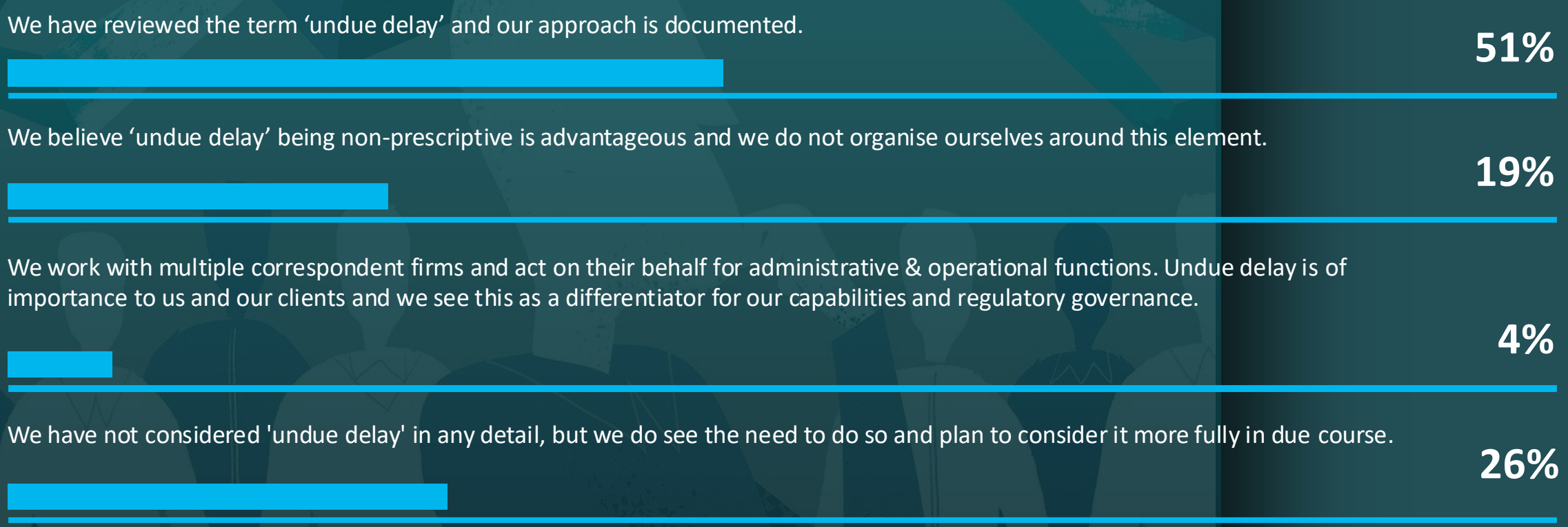
Q18. Which of the following statements is most applicable to your firm regarding the term 'undue delay' in CASS 6 & 7?



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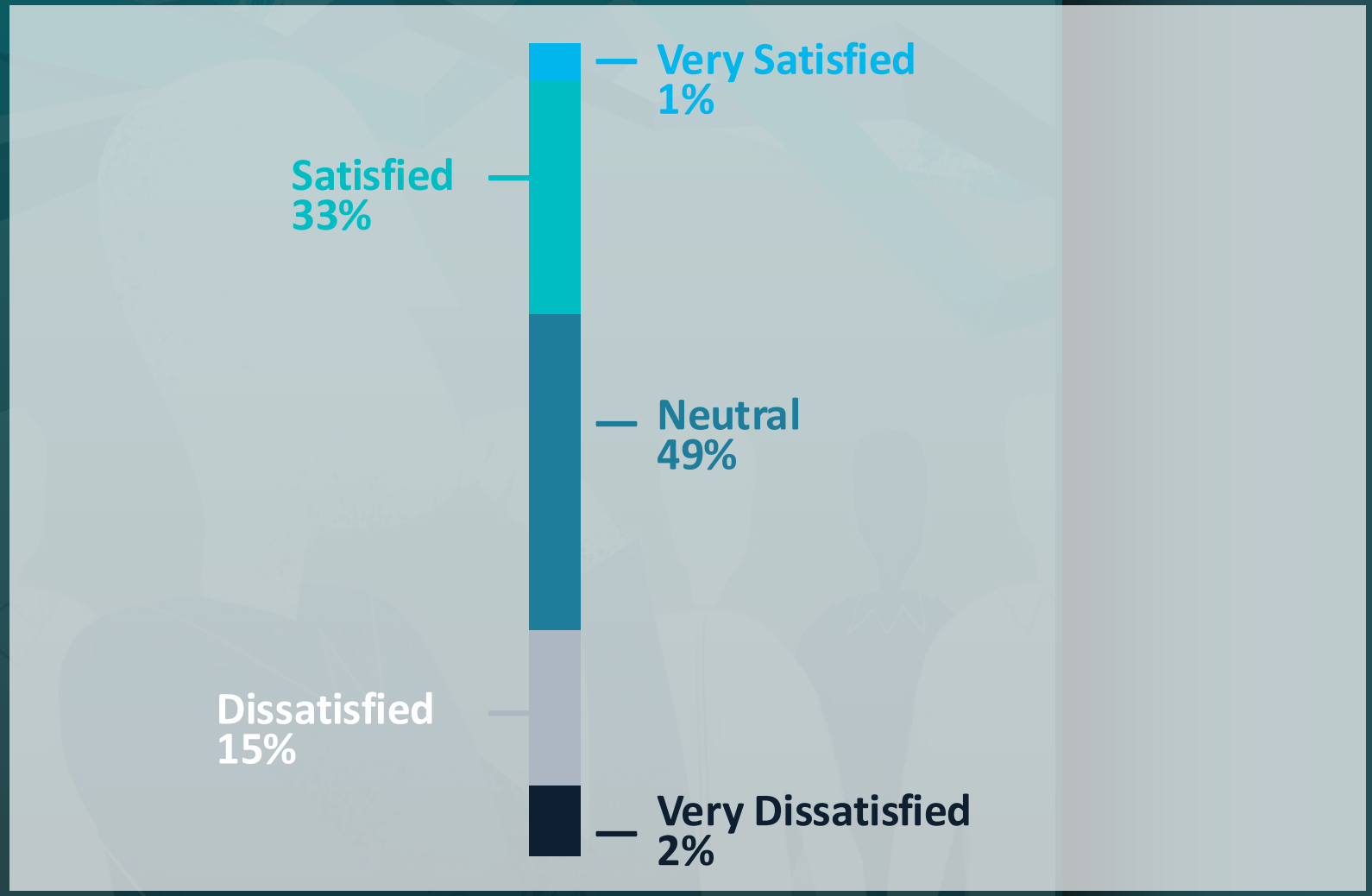
Q19. How satisfied are you with the current CASS regulations and the support provided by the FCA?



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Q20. Please provide any additional comments or suggestions that could help improve CASS compliance and industry practices.

"Further FCA consideration is required around e-money providers and PSPs."

"A CASS style regime for PSPs would be beneficial, as would clarity over the definition of a mandate as I believe that the broad definition has led to unintended consequences i.e., a number of items being considered a CASS 8 mandate increasing the cost of monitoring and compliance to firms. CASS 8 mandate exemptions would be beneficial i.e., direct debits that have protections under the direct debit guarantee."

"More guidance on the ISEM process. More guidance on plans in relation to crypto, stablecoin etc."

"It would be helpful for the FCA to support auditors more and give direct guidance so that all firms are held to the same standards."

"It would be helpful if the audit firms could agree a common approach as so far there seems to be quite wide rule interpretations which are obvious when discussing these issues with peers."

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Q20. Continued...

"More shared knowledge on industry practices re inadvertent client money would be helpful."

"PSP is the greatest challenge at present."

"There needs to be greater consistency across the audit firms in their approach to certain topic."

"CASS 8 needs to be reviewed."

"As a small firm the cost of the annual CASS audit both financially and on resource is having a greater impact each year."

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SUMMARY AND KEY FINDINGS

This targeted survey examined key touchpoints between the Consumer Duty regulation and the Payment Service & EMI safeguarding regime, aiming to assess any significant changes occurring across the industry. While Consumer Duty changes have been notably impactful, the survey findings highlighted that:

- Firms tend to view each regulatory regime in isolation, only considering cross-regulation impacts when specifically required.
- Many firms expressed the need for more detailed guidance on achieving synergy across different regulatory areas.
- A key theme from the responses was the demand for improved audit alignment and clarity, particularly in complex areas of the CASS rules. Recent high-profile challenges and upcoming safeguarding audits being brought into FRC standards were viewed positively, yet the survey revealed concerns about inconsistencies in audit interpretations, often referred to as audit 'house views.'

On a positive note, firms are recognising these challenges and are eager to collaborate to align CASS audit findings and outcomes across the industry. Our survey partner, **fscom**, has been instrumental in assisting firms with audit preparation and addressing audit findings, highlighting the complexity faced by both firms and auditors in navigating these evolving regulatory landscapes.

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THANK YOU

Thank you for taking the time to read our report. We hope you found it insightful.

What's apparent, is that this topic would benefit from further analysis and synergy to try to mitigate any residual challenges and is an area we do intend to discuss further as part of both TISA's next CASS Committee meeting and the **fscom** CASS advisory group.

This will help form part of TISA's dialogue with the regulator in the coming months and if you would like further details on that, please do not hesitate to get in touch.

Finally, we would like to take this opportunity to thank everyone who took part in the survey and helped us raise a total of £525 for *Cash for Kids*.

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