TISA

Response by TISA to CP25/37 – Targeted Clarifications of Handbook Materials

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About TISA

Supporting the financial journey through life

The Investing and Saving Alliance (TISA) is committed to improving the financial wellbeing of all UK consumers by working collectively with the financial services industry to deliver solutions and champion innovation, for the benefit of people, our industry, and the nation.

We do this by working with our member firms to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

We care about the entire financial life of consumers: from their first savings account opened to ensuring people can age and retire with dignity. TISA believes that savings and investments play a significant role in the lives of people and small businesses. Consumers benefit when they put aside money for their future. Saving and investing can provide a buffer for emergencies; help people achieve big and small goals throughout their lifetime; and give people quality of life in later years.

TISA is a not-for-profit membership organisation and a trusted partner of key industry stakeholders in helping shape the future of the UK financial services and the environment in which we operate. We have over 260 member firms involved in the supply and distribution of savings and investment products and associated services.

Our work, your influence

Our policy work reflects TISA's broad scope of interests and aims on meeting the needs of UK consumers, members and our industry. From improving financial education, inclusion and accessibility, right through to savings, investments and retirement planning, the work we do with our members to **influence policy** is crucial in enhancing the industry we operate in and driving positive change.

As part of our commitment to delivering focused and impactful consumer outcomes, TISA's policy working groups have been structured into three distinct workstreams:

1. **Consumer Protection -** *Protecting the best interests of UK consumers in their financial journeys.*
2. **Consumer Access -** *Considering issues that could directly impact access to financial products.*
3. **Effective Products -** *Examining key considerations and legislation relating to products across the investing and saving landscape.*

All groups focus on both strategic and technical elements of policy/regulation. We provide a channel for firms to have their say on the policy we develop and present, contribute to our technical and regulatory interpretation work and, importantly, gain insights from other TISA members, policy makers, government and regulators.

Find out more about TISA here: **www.tisa.uk.com/about-tisa**

Feedback to CP25/37 – Targeted Clarifications of Handbook Materials

This response is focussed on the proposed changes to the FCA's Client Assets (CASS) Handbook.

A link to the consultation can be found here.

The FCA sets out that this consultation is designed to:

- Resolve uncertainty in the FCA's rules and guidance, that have been wholly or in part superseded.
- Introduce greater proportionality and clarity to existing rules.
- Resolve clear cases of conflict and duplication in the rules.
- Seek views on how the FCA could enhance support for smaller firms.

Summary statement

TISA and our members fully support the FCA's stated outcomes for the changes being consulted on. We also agree that changes are required to CASS 6 & 7 to address the compliance challenges set out in the consultation to introduce more flexibility, predictability, improve efficiency and provide greater clarity for those tasked with interpreting and meeting the CASS compliance requirements set by the FCA.

We however do not agree with a number of the updates proposed. The rulebook changes as currently drafted would reduce efficiency, make interpretation of the regulation less predictable and would introduce additional complexity, resulting in the burden and cost of compliance increasing.

In our responses, we have endeavoured to propose reasonable alternative options for addressing the issue highlighted, though more aligned to the FCA's stated desired outcomes for this consultation. We have also recommended several other CASS compliance areas which we believe the FCA should consult on, many of which would have a greater beneficial impact to firms than those being consulted on in CP25/37, without any corresponding loss of client assets protection. We will follow-up with a more detailed list of recommendations later in Q1 2026.

#	Question	Response
1	Do you agree with our proposal to delete the section of the concentration rule that covers UK UCITS investment in CIS: COLL 5.2.29R(3) and COLL 5.2.29R(6)? If not, please specify why not.	No response – no CASS changes.
2	Do you agree with our proposal to amend the due diligence record-keeping requirements so that firms must retain records for 5 years from the date they are created and/or modified, rather than 5 years after	Yes, we expect this would enable the majority of firms currently reporting this as an open item in their audit report to report the item finally resolved.

	the relationship ends? If not, please explain why and any other options we should consider.	The FCA should consider going further and allow for closure of any breaches caused by a failure to perform or retain an initial or periodic due diligence to be resolved on the completion of a periodic due diligence. In practice, the considerations required to be taken as part of an initial due diligence mirror those required in the performance a periodic due diligence, with the initial due diligence providing limited benefit after the fact other than to evidence that at the specific point in time when entering into the custody/client money account provider relationship that they were deemed appropriate. The periodic due diligence provides an updated position, which provides assurance that the counterparty remains appropriate. Having to continue reporting a breach as open for five years is still an administrative burden for firms, auditors and the FCA, particularly where the only course of action open to the firm is to wait five years. We however acknowledge that the changes proposed by the FCA very much improve the position.
3	Do you agree with our proposals relating to the use of EUI's IFS System Record for external custody reconciliations – including the proposed conditions to ensure accuracy and reliability, and the guidance that daily reconciliations would represent best practice? If not, please explain your views and suggest any changes we should consider.	Yes.
4	Do you agree with our proposal to amend the rules to permit a firm to conduct the external custody reconciliation less frequently for	Yes in principle, though the proposed updates to the rulebook and corresponding requirements that must be met to comply with CASS do create ambiguity and

	client assets where it can demonstrate it is unable to obtain third party statements on at least a monthly basis? If not, please explain why.	complexity, which are not aligned to the FCA's stated desired outcomes from this consultation. The FCA should review their proposals and simply set the requirement on firms to reconcile as frequently as possible e.g. aligned to how frequently statements are provided in conjunction with the level of trading activity. This could be achieved with minimal updates to CASS 6.6.37 R & 6.6.44 R. The current draft text for CASS 6.6.40A R and 6.6.40C R also did cause some confusion amongst our members when reviewing the proposed changes. We recommend that the text be updated to make it clearer that the rules independently apply and when to apply them. Specifically, CASS 6.6.40A R would in our reading apply for example to exchange traded assets such as equities recorded on CREST, where they are subsequently delisted from the exchange, preventing the firm from completing a monthly reconciliation as an up to date record of holdings would no longer being available from the 'procured' third party. It would not apply in the example of collective investment scheme units where the fund manager does not provide a monthly statement to the firm. Instead, the requirements set out in CASS 6.6.40C alone would apply. It is also unclear in the example of a delisted equity holding, which is subsequently not relisted on an exchange the firm can access, or not relisted at all, whether CASS 6.6.40A R would continue to apply indefinitely. In this scenario the firm would find itself with a direct holding, with the only record available to the firm to reconcile against being the one maintained by the companies appointed registrar. The third party procured by the firm

		would no longer have access to an up to date record of the holding. If instead CASS 6.6.40C R would apply once the delisting activity was complete, it's unclear at what stage that would be required to take effect. Further to this, it is implied that firms will have an explicit agreement with a third party to provide monthly (or more frequent) statements. This however will not always be the case, for example where the firm finds itself with a direct holding with a company registrar due to a delisting event, or where a company has entered liquidation and administrators have been appointed. We also suggest removing 6.6.40B G (2) as it creates ambiguity. We don't foresee scenario where a third party due to a system issue cannot provide a statement for a prolonged period of time e.g. if an investment exchange suffered a system outage, it could result in the statement being provided late but the firm should still be in a position to reconcile monthly when it is subsequently provided. If the issue is more serious and the third party suffers a long term outage, it's unclear what benefit there is for the firm to report a breach of the rules and instead firms should be able to consider this a third party caused issue and reconcile to the last known position. Regardless, if this scenario did occur this should be an allowable exception from the requirement to perform a monthly reconciliation. In this scenario, the firm has not done anything wrong and requiring a CASS breach to be raised provides limited benefit to the firm or FCA.

		CASS 6.6.40C R then introduces a requirement to make a record of attempts made to procure a monthly statement, of the third party's refusal to provide one, the conclusion reached by the firm and how the risk posed by less frequent reconciliations is mitigated by the firm. This must then be annually reviewed, aligned to CASS 6.6.46 R. Having to document within a policy all of the action taken per custody asset holding will for some firms be a significant undertaking and be duplicative. There would also be added challenges where the CASS policy is maintained by the firm but third party administrators are appointed to perform reconciliations. Capturing this information in the level of detail required to meet the requirements set out in this consultation would add cost and complexity to oversight arrangements. Current practice generally is for this information to be broadly documented on the respective custody asset reconciliation and where a statement has not been obtained for that month, the firm will reconcile to the last known position. In respect of the requirement set out in CASS 6.6.40C R (1) (b), the FCA should also consider that often the third party's reasons for not providing a statement are not confirmed to the firm. The reason when confirmed is often that the third party is not obliged to provide a monthly statement to enable monthly reconciliations. An explicit 'refusal' to provide a statement isn't always provided, a statement is just received as and when deemed required e.g. less frequently, or when a transaction takes place that changes the firm's custody asset holding with the third

		party. We suggest this requirement to receive a 'refusal' be removed. The FCA's proposed solution creates a greater compliance burden than the existing position, where firm's record a technical CASS breach reflecting an inability to comply with the requirement to perform monthly reconciliations. The requirements proposed by the FCA should be simplified and instead firms should be required to record as part of the custody asset reconciliation why an up-to-date statement hasn't been used in the performance of the reconciliation and what action has been taken to obtain one. Alternatively the FCA could simply set requirement in CASS to reconcile as soon as reasonably practicable. The requirement to maintain a standalone record of all custody asset holdings where monthly reconciliations haven't been possible and for this to be annually reviewed should be removed. Instead, we suggest that CASS 6.6.46R be expanded to require a firm to document the approach it takes when it is unable to reconcile monthly to cover the considerations noted by the FCA in 6.6.40C (2) (c). The requirement should be to document this thematically and not as an individual custody asset holding level.
5	Do you agree with our proposal to amend CASS 7.11.32R to clarify that firms must comply with the Duty when retaining interest earned on retail client money? If not, please explain why, including alternative approaches.	No. This creates duplication across the FCA's rulebooks and we do not believe there is any need to clarify obligations on firms under the Duty in the CASS rulebook. Firms understand their obligations under the Duty and it's unclear what benefit this change would deliver.

		We are also not supportive of compliance with CASS being subject to other overarching FCA requirements e.g. compliance with CASS should not depend on compliance with the Duty. Instead requirements for compliance should remain distinct to avoid ambiguity and complexity when interpreting compliance requirements. Note that within the consultation on page 24, the FCA explicitly notes that interest can only be paid to the firm in compliance with CASS if 'it has complied with CASS 7.11.32R, CASS 7.11.33G, and for retail clients, the Consumer Duty'. The Duty is already part of the FCA Rulebook and firms are already required to ensure they act in compliance with it in all their dealings with Retail clients. If the FCA where to proceed with incorporating references to compliance with the Duty into the CASS rulebook as drafted, this would likely increase the time, cost and complexity of CASS compliance arrangements within firms. We acknowledge the FCA have attempted to mitigate this to some extent with updates to the SUP handbook to exclude these new requirements from the scope of the annual CASS audit. It would however still impact CASS compliance arrangements within firms, with CASS teams having to expand their remit to gain assurance that compliance with the Duty is being achieved in these areas, regardless of whether this is an area in-scope of the CASS audit.

		To address some of our stated concerns, we suggest as a minimum removing the proposed 7.11.32 R (2) and replacing with guidance reminding firms of their obligations under the Duty. This is more appropriate considering the FCA's stated target outcomes for this change.
6	Do you agree with our proposal to amend CASS 6.4 to clarify that firms must comply with the Duty when gaining consent for and using retail clients' safe custody assets for SFTs? If not, please explain why, including alternative approaches.	No. This creates duplication across the FCA's rulebooks and we do not believe there is any need to clarify obligations on firms under the Duty in the CASS rulebook. Firms understand their obligations under the Duty and it's unclear what benefit this change would deliver. We are also not supportive of compliance with CASS being subject to other overarching FCA requirements e.g. compliance with CASS should not depend on compliance with the Duty. Instead requirements for compliance should remain distinct to avoid ambiguity and complexity when interpreting compliance requirements. The Duty specifically in respect of this change is already part of the FCA Rulebook and firms are required to ensure they act in compliance with it in all their dealings with Retail clients. The requirements in CASS should standalone and there should not be dependencies created to comply with rules across multiple rulebooks for compliance with CASS. If the FCA were to proceed with incorporating references to compliance with the Duty into the CASS rulebook as drafted, this would likely increase the time, cost and complexity of CASS compliance arrangements within firms. We acknowledge the FCA have attempted to

		mitigate this to some extent with updates to the SUP handbook to exclude these new requirements from the scope of the annual CASS audit. It would however still impact CASS compliance arrangements within firms, with CASS teams having to expand their remit to gain assurance that compliance with the Duty is being achieved in these areas, regardless of whether this is an area in-scope of the CASS audit. To address some of our stated concerns, we suggest as a minimum removing 6.4.1BAR (2)(c). CASS 6.4.1BCG could be expanded to remind firms of their obligations under the Duty if the FCA deem this required. Including this as guidance is more appropriate considering the FCA's stated target outcomes for this change, whilst also address our concerns with requirements for compliance overlapping across rulebooks.
7	Do you agree that the changes to CASS 6.4 and 7.11 should be excluded from the scope of the CASS audit? If not, please explain why.	Yes, though as noted in our responses to questions 5 & 6, the requirement to comply with the Duty in respect of decisions made by firms to retain interest earned on client money, or when entering into SFT's should be included as guidance if included at all, not as a requirement for compliance with CASS.
8	Do you agree with our proposal to permit receipt of firm owed interest into client bank accounts (when not as part of a mixed remittance) in limited circumstances and subject to conditions? If not, please explain why, including alternative approaches.	Yes. We however suggest that guidance be added to confirm record keeping requirements for evidence of banking counterparties refusing to redirect interest due and payable to the firm and to clarify how frequently this should

		be re-confirmed with them. As written, the assumption is that attempts would need to be made to have interest redirected annually at a minimum to evidence compliance in each audit period. We also recommend that the FCA make additional updates to the CASS rulebook to more broadly define that all client money that becomes due and payable to the firm should be paid within 1 business day.
9	Do you agree with our proposal to allow firms to elect to treat bank interest received into a client bank account as 'unallocated client money' from the point of receipt, where the firm has agreed that some or all of the interest will become due and payable to the client at a future date? If not, please explain your concerns.	Yes we agree in principle, though the updates proposed have introduced more complexity and we think a simpler solution is required. For example, the record keeping requirements for the 'election' to treat a unallocated client money isn't clear and subject to interpretation could be quite onerous. Reference in the consultation to interest earned only being due and payable to the firm subject to compliance with the Consumer Duty also creates unhelpful overlap between rulebooks (covered in responses to questions 4 & 5). The FCA should clarify what form the record of the election to treat as unallocated client money can take. Our strong recommendation is that the act of recording the money as unallocated client money in respect of interest earned on client money should be sufficient to record the election being made and achieve compliance. Any requirement for a standalone record to be maintained each time an election is made would be onerous and add unneeded complexity. The requirement for compliance against the draft rules for CASS 7.10.2A R (4) is also

		unclear. It requires firms and their auditors to allocate client money to clients 'as soon as possible'. To remove ambiguity we suggest a specific timeframe be stated. Aligned to the timeframe that would apply if interest was received from a banking counterparty that was wholly due and payable to clients (CASS 7.13.36R), we suggest it be confirmed that at the point interest becomes due and payable, it must be allocated to clients within 10 business days. Note in respect of the draft rules, there is already a CASS 7.13.19A (though G rather than R).
10	Do you agree with the proposal to remove PPI-specific rules on eligibility and disclosure? Please explain your response.	No response – no CASS changes.
11	Do you agree with removing PBA-specific eligibility rules given the introduction of the Consumer Duty? Please explain your response.	No response – no CASS changes.
12	Do you agree with our proposal to delete the PBA-specific suitability of advice rules (ICOBS 5.3.2AR and ICOBS 5.3.2BR) given Principle 9, ICOBS rules on customer's demands and needs, together with the Consumer Duty, ensure suitability of advice?	No response – no CASS changes.
13	Do you agree with our proposal to introduce non-product specific guidance on eligibility under the general insurance rules? Please explain your response.	No response – no CASS changes.
14	Do you agree with removing the entirety of PROD 4.5? Please explain your response.	No response – no CASS changes.

15	Do you agree with removing the minimum 12-month product review requirement for funeral plan manufacturers? Please explain your response.	No response – no CASS changes.
16	Do you agree with our proposed removal of the record retention rule? Please explain your response.	No response – no CASS changes.
17	What resources do you currently use to understand our regulatory expectations?	No response – no CASS changes.
18	Do you agree with our proposal to pilot a directory-style guide with case studies in the consumer finance sector, with an initial focus on credit brokers? Which other business models would benefit from their own smaller firm guide?	No response – no CASS changes.
19	Are there particular areas of our requirements we should focus on in a pilot guide (i) for consumer finance firms (ii) for other business types?	No response – no CASS changes.
20	Are there any issues or topics covered in these Treating Customers Fairly materials that you believe aren't currently covered by publications related to the Consumer Duty and that we should consider through our future policy programme?	No response – no CASS changes.
21	Do you have any views on our proposal to retire RPPD and are there any elements which could be usefully incorporated into guidance on current product governance provisions?	No response – no CASS changes.
22	Do you agree that this approach will provide more clarity on our rules and expectations and the scope of	No response – no CASS changes.

	application of Principles 6, 7 and the Consumer Duty?	
Other feedback	There are other areas of the Client Assets rulebook where requirements could be updated to introduce more flexibility, efficiency and clarity. They would reduce costs and complexity without a corresponding increase in risk of loss of client assets in the event of a firm's insolvency. These include but are not limited to: • Allow for a firm to appoint a PSP to hold client money, acknowledging the reality that many firms already do this but are currently required to record a breach of CASS with no route to compliance without ending the relationship with the PSP. • Acknowledge the widespread use of external data feeds (custody assets and client money) to maintain records of client assets held where no other method could reasonably be employed. This is reflected in CASS 15 (15.8.16G) but has not been incorporated into CASS 6 or 7. • Remove the requirement to record assets or client money held in respect of custody asset shortfalls against specific clients, as this is not appropriate where the firm operates omnibus accounts e.g. holds assets in aggregated nominee arrangements(CASS 6.6.54R). • Expand the scope of the unclaimed client money and custody asset requirements for payment to charity to include unidentified client assets (client money and custody assets). Currently firms are required to apply for a waiver/rule modification to discharge these holdings. • Increase the de minimis values for unclaimed client money from (CASS 7.11.56G). • Review the scope and requirements for compliance with CASS 8 with a specific focus on direct debits, reflecting that protection is already provided to clients in the form of the direct debit guarantee and under CASS 7 for any amounts collected into the firm. Alternatively, retain the current rules as drafted but remove CASS 8 from the scope of the annual reasonable assurance audit. • Review the current CASS due diligence requirements (client money and custody): 1. Reflecting recent firm failures, consider the likelihood that current due diligence requirements would have identified the risk these firms represented and prompted the movements of client assets away prior to failure. 2. Aligned to the outcomes sought from this consultation, the FCA should review whether due diligence requirements should remain within the CASS and other rulebooks, or whether this would be more appropriately included solely within SYSC. By expanding the requirements set out in SYSC to consolidate all due diligence requirements set by the FCA into a single rulebook, it would remove duplicative provisions across the handbook. This would provide improved efficiency, clarity and consistency for firms and their suppliers.	