

What to do if you're in any doubt.

By its very nature, this update can only be a very broad summary of what is a complex document covering many critical areas to any Insurance Broking business involved in managing client money or assets. It is, nevertheless, fair to say that the FSA will be playing particularly close attention to compliance with the CASS rules during 2010.



For some businesses, addressing the issues covered in this update could be particularly challenging. At Wilkins Kennedy we combine our experience in the sector with our knowledge and expertise of Financial Services Authority rules and regulations to deliver practical support based on a real

understanding of your business needs. In addition, and should you require, we can complete client money audits in accordance with FSA rules, as well as undertaking interim reporting, if required.

To find out more, simply contact your nearest Wilkins Kennedy office which will put you in touch with a member of our team of Insurance Broking Specialists.

Spring 2010

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Welcome

In this Insurance Services Group update, we highlight some of the recent activities – and conclusions – of the FSA which might impact on almost any business in the insurance broking sector – especially those holding client monies or assets.

Watch out - the FSA is getting even more inquisitive!

The over-riding message is that recent investigations by the FSA have uncovered errors and mishandling of client funds. According to a recent publication, the main points arising are:

- 1. Customers must have confidence that their money and assets are safe and will be returned within a reasonable timeframe in the event that a firm were to become insolvent; and**
- 2. Customers must have confidence that firms holding their money and assets have strong management oversight and control over their business.**



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Make sure your business is compliant

In recent months the FSA has made numerous visits to a wide range of investment and insurance broker firms, to review their compliance with the requirements set out in CASS. These visits identified a number of failings which the FSA believes could be indicative of weaknesses in other firms doing similar business.

The main areas highlighted included poor management oversight and control; lack of establishment of trust status for segregated accounts; unclear arrangements for the segregation and diversification of client money and incomplete or inaccurate records, accounts and reconciliations.

The FSA also clearly states that the protection of client money and assets will continue to be a regulatory priority in 2010 and that specialist visits will continue throughout the coming year.

Key findings of the FSA searches

In its report, the FSA stated that there were "a few" instances where robust governance arrangements and detailed management information helped to provide assurance to senior management that the firm's CASS risks were adequately evaluated, monitored and mitigated.

However, its research also highlighted a number of issues, including:

- > **inadequate senior management oversight and control was often the underlying cause of more serious CASS breaches;**
- > **overly complex processes around client money and assets had led to an increased risk of human error; and**
- > **operational and systems changes during transitional periods posed a high risk of segregation errors.**

Specifically concerning Insurance Brokers, the FSA pointed out that quite often there was unclear allocation of duties by senior management that led to confusion between staff or a lack of accountability. In some cases, client money processes had been delegated too far, leading to a lack of senior level responsibility and accountability.

Some other pertinent issues identified by the FSA during these visits included:

1. Management oversight and control

The FSA found that the risk of non-compliance was higher when senior management had not put in place adequate CASS governance arrangements or had not communicated these arrangements to staff.

2. Acknowledgments of trust status

Some firms could not locate trust acknowledgements for each of the firms' client money accounts or produce evidence that the trust status extended to the deposit or money market facilities they used.

In addition, the majority of firms checked had not verified whether the acknowledgement letters contained the required details and confirmations CASS requires firms to obtain.

3. Due diligence of banks

The report also stated that, "due diligence and review of banks, credit institutions or qualifying money market funds that were used to hold client money was often limited. Typically firms just relied on the credit rating of the banks used. The majority of firms we visited failed adequately to document the rationale for choosing to use a particular bank." The FSA also identified that there had been a lack of consideration for the need to diversify risk, where firms used only one bank or banking group to hold their client money.

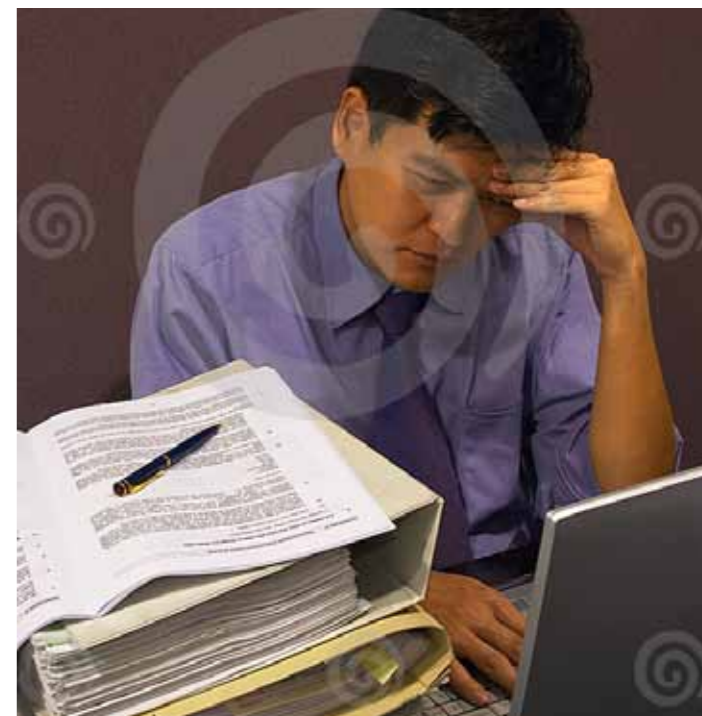
4. Reconciliations

Carrying out reconciliations of records and accounts for each client is one of the ways that a firm can satisfy itself that client money and custody assets are appropriately segregated and the FSA quotes examples where some firms left prolonged periods of time between performing internal reconciliations, or in some cases omitted internal reconciliations altogether.

5. Client ownership rights

Some firms had entered into agreements with clients that transferred ownership rights over money to the firm - for example Title Transfer - or inappropriately claimed money to be "due and payable" in order to claim this as their own.

The FSA is concerned that this practice can result in clients not receiving the protections they are entitled to.



6. Oversight of Third Party Administrators (TPAs)

Most of the firms visited that used TPAs to hold and control client money had robust arrangements in place to receive, review and keep information and records on the reconciliation of client money and assets.

However the report does underline the fact that any firm outsourcing any relevant services and activities remains fully responsible for discharging all of its obligations under the regulatory system and that the FSA expects to see firms establishing methods for assessing the standard of performance of the TPA, taking appropriate action if that service provider does not appear to be carrying out its functions effectively and ensuring that plans for disaster recovery and periodic testing of back-up facilities of that TPA are in place.

7. The importance of clear documentation

The report also highlights inconsistencies in the quality of documentation and in record retention practices.

"Firms are also obliged to ensure that proper records, sufficient to show and explain the firm's transactions and commitments of its client money, are made and retained for a period of three years after they were made."



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