TRAVERS SMITH

TRAVERS SMITH LLP
10 SNOW HILL
LONDON EC1A 2AL
TEL: +44 (0) 20 7295 3000
FAX: +44 (0) 20 7295 3500
DX 79 LONDON
WWW.TRAVERSSMITH.COM

Matthew Shaw
Institutional Business Policy
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

YOUR REF:
OUR REF: GFG/GFG
DOC ID: 7086935
DIRECT LINE: +44 (0) 20 7295 3188
EMAIL: geraldine.gobbi@traverssmith.com

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Dear Sirs

Response to CP08/6 – Review of client asset sourcebook

The City of London Law Society is the local Law Society of the City of London and represents City solicitors, who make up 15% of the profession in England and Wales. Members of the Regulatory Committee advise a wide range of firms in the financial markets including banks, brokers, investment advisors, investment managers, custodians, private equity and other specialist fund managers as well as market infrastructure providers such as the operators of trading, clearing and settlement systems.

We are writing to respond on the following issues raised in the consultation paper.

1. The FSA proposes not to carry forward the specialist provisions for depository receipt business which are currently in CASS 2.1.24. The explanation that the FSA gives for this in paragraph 4.19 is extremely confusing. We consider that the existing concessionary regime is useful and should be kept.

2. CASS 2.2.10(5) allows a firm to effect registration or recording of these title in the name of any person in accordance with the client's specific written instruction provided that the client has been given a risk warning. This has been deleted (see comment in paragraph 4.8). There are some markets where this was a helpful provision and there would seem no reason to remove it.

3.CASS 2.2.15(2)(b) is not carried forward into the new rules. We think that it offers valuable flexibility. The ability to hold the assets of professional clients under 2.2.15(2)(b) can be useful in some jurisdictions where it is common to hold bearer certificates with notaries and the like. The fact that MiFID firms do not have this flexibility should not affect non-MiFID firms. We wonder if the reason for not keeping CASS 2.2.15 is the argument that it is dealt with at a higher level in CASS 6.2.1 and 6.2.2 and if our assumption is correct, on that basis, would the FSA agree that a firm which held physical investments in the manner that was previously permitted by CASS 2.2.15 would be compliant with the standard in CASS 6.2?

4. CASS 2.3.14 is not being retained, which enabled a firm, with the client's prior written agreement to retain statements that would otherwise be sent to the client, if the client ordinarily resided outside the UK. There is an existing contradiction between this rule and COBS 16.4 and the FSA is now proposing that COBS 16.4 should be the standard. We feel that this could be inconvenient for many overseas clients.

5. Generally, we feel that there is a need for transitional provisions as firms with existing custody agreements will not wish either to have to get any new consents and may have custody arrangements that comply with the current CASS rules and it may well be inconvenient and expensive to change such arrangements.

6. We support the retention of the opt out from the client money provisions for professional clients and eligible counterparties. In our experience it has been a valuable provision which has not given rise to investor protection issues and we welcome the FSA's proposal to maintain this flexibility.

7. We disagree with the proposal to change the exemption for money held by a bank as banker. There are a number of institutions operating in the UK which operate through a branch of a non-EEA entity and which are approved banks (see the FSA website for the fairly extensive list, including some major banks). To require them to open bank accounts either with their own subsidiaries or other credit institutions is unnecessary. Firms are permitted to deposit their own client money with an approved bank. It would therefore be very odd if an approved bank cannot hold money with itself as banker.

Yours faithfully

Geraldine Gibbi

P.P. **MARGARET CHAMBERLAIN**