FINANCIAL SERVICES FACULTY

# CASS 5 – NST SYSTEMS AND CONTROLS CONFIRMATION LETTER

GUIDE

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This guide explains the requirements for insurance intermediaries operating a CASS 5 non-statutory trust (NST). It focuses on the separate auditor confirmation letter required under CASS 5.4.4R, the systems and controls firms need to manage client money and additional credit risk, and the auditor's assessment of those arrangements.

It also covers governance responsibilities, capital and client-consent requirements, when the confirmation should be obtained and refreshed, and common weaknesses - particularly inadequate credit control, unclear accountability and poor documentation.

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## OVERVIEW

Operating a non-statutory trust ("NST") client money environment introduces additional risk and complexity to a firm's client money arrangements and there are additional regulatory requirements in place to address this risk and complexity as a result.

CASS 5.4 permits a firm which has adequate resources, systems and controls, to declare a trust on terms which expressly authorise it, in its capacity as trustee, to make advances of credit to the firm's clients.

Under this arrangement, the firm may, in its capacity as trustee, advance credit to clients, for example by funding premium settlements to insurers prior to receipt from clients or settling return premiums or claims before the insurer remits the related funds.

This approach provides operational flexibility, but it also introduces additional credit risk into the firm's client money arrangements which must be monitored and managed closely.
Firms operating a non-statutory trust account must obtain an NST systems and controls confirmation from their CASS auditor to demonstrate that the systems and controls in place are

adequate to meet CASS 5 requirements. The FCA also require confirmation that a letter has been obtained through the Retail Mediation Activities Return and actively monitor when a confirmation has not been obtained, which might indicate an inadequate control environment.

It is important to note that the FCA accepted the NST regime reluctantly on initial drafting of the CASS rules and NSTs are still perceived as risky by the regulator.

The requirements of CASS 5.4 should therefore be viewed as a core component of a firm's wider CASS governance framework, requiring systems and controls that are not only well designed but also fully embedded within its operations and supported by effective and ongoing oversight.

## CASS 5.4 – NON-STATUTORY CLIENT MONEY TRUST

This section is a voluntary election for those firms looking to operate a Non-Statutory Trust. When doing so, there are a number of conditions set out in CASS 5.4.4R that firms must comply with:

| **CASS 5.4.4R** |
|---|
| (1) the firm must have and maintain systems and controls which are adequate to ensure that the firm is able to monitor and manage its client money transactions and any credit risk arising from the operation of the trust arrangement and, if in accordance with CASS 5.4.2 R a firm complies with both the rules in CASS 5.3 and CASS 5.4, such systems and controls must extend to both arrangements; |
| (2) the firm must obtain, and keep current, written confirmation from its auditor that it has in place systems and controls which are adequate to meet the requirements in (1); |
| (3) the firm must designate a manager with responsibility for overseeing the firm's day to day compliance with the systems and controls in (1) and the rules in this section; |
| (4) the firm (if, under the terms of the non-statutory trust, it is to handle client money for retail customers) must have and at all times maintain capital resources of not less than £50,000 calculated in accordance with MIPRU 4.4.1 R; and |
| (5) in relation to each of the clients for whom the firm holds money in accordance with CASS 5.4, the firm must take reasonable steps to ensure that its terms of business or other client agreements adequately explain, and obtain the client's informed consent to, the firm holding the client's money in accordance with CASS 5.4 (and in the case of a client which is an insurance undertaking (when acting as such) there must be an agreement which satisfies CASS 5.1.5A R). |

CASS 5.4.4 R (2) specifically requires that a firm must obtain written confirmation from its auditor that it has in place systems and controls which are adequate to meet the requirements of CASS 5.4.4 R (1). This assessment confirms that the firm has in place systems and controls that monitor and manage its client money transactions and any credit risk arising from the operation of the trust arrangement.

The written confirmation itself is to be a separate letter to the CASS report in accordance with Appendix 11 of the FRC's CASS Assurance Standard. Often CASS 5.4.4 letters are issued concurrently to the CASS 5 report with the relevant assurance procedures designed to support both the CASS 5 report and the CASS 5.4.4R (2) confirmation.

The requirement of the CASS 5.4.4R (2) confirmation is, therefore, to focus on the controls and governance in place at a point in time, which demonstrates the firm is set up to meet the requirements of operating under CASS 5.4, but also to manage the additional credit risks that may arise subsequently. This reflects the FCA's expectation that firms operating NST arrangements demonstrate a higher level of control maturity.

## SYSTEMS AND CONTROLS

A firm operating a non-statutory trust is expected to establish a comprehensive control framework that addresses both client money risks and the additional risks arising from credit advances. In practice, this includes controls relevant to managing client money transactions and credit risk including those related to:

- accuracy of transaction booking to books and records
- banking procedures;
- commission withdrawal;
- reconciliation and review;
- performance and review of client money calculations;
- authorising credit advances and reviewing funding reports;
- performance of a client-by-client reconciliation if required by CASS 5.5.69R
- regularly reviewing outstanding credit against the need to make payments for other clients; and
- credit control and debt recovery.

Given the introduction of credit risk, firms should maintain controls that allow them to monitor outstanding funding positions on a timely basis and to assess whether such positions remain within an acceptable risk appetite. This should include processes for reviewing aged debt balances, performing credit control activities and escalating where recovery issues arise.

More fundamentally, firms should recognise that the operation of a non-statutory trust is dependent upon effective funding and credit control arrangements. As a result, the ability to identify, monitor, control and recover funded balances is central to demonstrating compliance with CASS 5.4.4R(1).

Any recoverability issues in respect of funded balances should also be considered under CASS 5.5.65R to ensure such debts are valued on a prudent and consistent basis to the extent required to meet any shortfall.

Firms should ensure that these controls are appropriately documented within their CASS policies and supporting CASS 5 risk and controls assessment. Consistent with FCA expectations, the control framework should clearly map to the underlying CASS rules and should be subject to ongoing monitoring to ensure it operates effectively in practice. Further guidance on preparing and maintaining a CASS risk and control matrix is included in the ICAEW CASS governance helpsheet issued in October 2024.

It is also important to highlight where firms are operating both non-statutory and statutory trust environments, complying with both the rules in CASS 5.3 and CASS 5.4, such systems and controls must extend to both arrangements.

## AUDITOR CONSIDERATIONS

In providing the written confirmation required by CASS 5.4.4R(2), auditors are required to perform procedures in accordance with the Client Assets Assurance Standard. This includes an assessment of both the design and implementation of the firm's control environment.

In evaluating the control environment, auditors will carry out procedures to confirm that controls specific to the operation of the non-statutory trust account are operating as expected in practice.

This assessment requires CASS auditors to:

1) Assess assurance engagement risk relevant to the operation of trust arrangements.

2) Evaluate whether the design of the system of internal control will, if implemented and operated effectively, ensure compliance with the CASS rules that are applicable to non-statutory trusts of insurance intermediaries.
3) Whilst considering design assessment, perform walk through procedures (which may be on a sample basis) as a means of establishing that controls have been put into place as designed.

Similarly, auditors must consider the other requirements of CASS 5.4.4R when evaluating whether systems and controls are sufficient to issue their written confirmation. This would extend to broader elements of governance. This includes assessing whether the firm has designated an appropriate individual with responsibility for CASS oversight, whether the firm meets minimum capital requirements where applicable, and whether client agreements adequately explain the nature and implications of the non-statutory trust.

In particular, firms should ensure that their terms of business and other client agreements clearly articulate the implications of funding arrangements, including any increase in credit risk and the treatment of client money in the event of firm insolvency. The language used should be clear and capable of being understood by clients, and should not rely on overly technical or opaque explanations.

Firms should therefore consider their compliance with the additional requirements of CASS 5.4.4R as critical when looking to obtain the NST confirmation of systems and controls letter.

If an auditor cannot provide an NST systems and controls confirmation due to identified weaknesses during a CASS audit - they may also consider an adverse opinion in the CASS assurance report.

## TIMING OF THE LETTER

The original requirement to obtain a CASS auditor's systems and controls confirmation in line with CASS 5.4.4R(2) arises at the point at which a firm seeks to operate a non-statutory trust arrangement. In practice, this will typically be required prior to receiving regulatory approval or at the point of establishing the relevant client money bank account.

At inception, auditors may provide confirmation based on the design of the control framework, often on the basis that the controls will operate effectively if implemented as described.

The firm is required to keep the confirmation up to date on an ongoing basis. Whilst the rules do not prescribe a specific frequency, firms should consider whether the confirmation remains valid in light of any changes to their business model, systems or control environment. It's important to note that the systems and controls confirmation can be updated at any time and does not need to be coterminous with the CASS audit although, in practice, is generally refreshed in line with the CASS assurance reporting cycle.

Firms should also be aware that the FCA may request evidence that the confirmation has been obtained and remains current, including through regulatory reporting such as the RMA-C return.

## COMMON ISSUES

Firms often misunderstand the nature and purpose of the NST systems and controls confirmation letter. In particular, some firms assume that the annual CASS assurance report satisfies the requirement, or that the auditor's opinion implicitly provides the required confirmation. This is not the case, as the NST systems and controls confirmation letter is a distinct requirement.

Firms should review the confirmation letter wording where this should state that the auditor confirms systems and controls are in place that are adequate to meet the requirements of CASS 5.4.4R(1) in accordance with the requirement of CASS 5.4.4R(2).

Similarly, some firms do not place sufficient emphasis on the management of credit risk introduced by funding arrangements. There is often a lack of formalised approval processes, inadequate monitoring of controls and limited oversight documentation. Where funding exposures are not subject to clear limits, regular review and documented recovery actions, firms may struggle to demonstrate that they are adequately managing the credit risk that underpins the NST arrangement. In practice, robust credit control and funding oversight are often among the most significant factors supporting an auditor's ability to provide the required systems and controls confirmation.

In addition, weaknesses in governance arrangements, including unclear accountability for CASS compliance and insufficient documentation of controls, can undermine the overall control environment.

It should be noted that where a firm has significant or pervasive breaches of the CASS rules, it is unlikely that an auditor will be able to provide the required confirmation until the control weaknesses have been adequately addressed.

## CONCLUSION

The requirement to obtain an auditor's systems and controls letter under CASS 5.4.4(2) R is a fundamental component of the non-statutory trust regime. It is intended to provide assurance that firms operating these arrangements have established a robust control framework capable of managing both client money and the additional credit risk.

Firms should therefore approach this requirement as an integral part of their overall CASS governance framework, ensuring that systems and controls are not only appropriately designed but are also embedded within day-to-day operations and subject to ongoing monitoring and oversight.

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* includes parent companies. Source: ICAEW member data March 2025, Interbrand, Best Global Brands 2024

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