Safeguarding of Clients' Financial Instruments & Funds

Measures and procedures for ensuring the maximum protection of the Clients' financial instruments and funds

Records and Accounts

For the purposes of safeguarding Clients' rights in relation to financial instruments and funds belonging to them, the Company shall:

(a) keep records and accounts in the Company's systems as are necessary to enable it at any time and without delay to distinguish assets held for one Client from assets held for any other Client and from its own assets;

(b) maintain its records and accounts in a way that ensures their accuracy, and in particular their correspondence to the financial instruments and funds held for Clients. The Back Office shall be responsible for ensuring the maintenance of the records and accounts, in every possible event;

(c) conduct, on a regular basis, reconciliations between its internal accounts and records and those of any third parties by whom those assets are held. The Head of the Finance & Accounting Department shall be responsible for the reconciliation;

(d) the Company shall take the necessary steps to ensure that any client's financial instruments deposited with a third party, are identifiable separately from the financial instruments belonging to the CIF and from financial instruments belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection;

(e) the Company shall take the necessary steps to ensure that client funds deposited, in a central bank, a credit institution or a bank authorized in a third country or a qualifying money market fund are held in an account or accounts identified separately from any accounts used to hold funds belonging to the Company;

(f) The Company shall introduce adequate organizational arrangements to minimize the risk of the loss or diminution of client assets, or of rights in connection with those assets, as a result of misuse of the assets, fraud, poor administration, inadequate recordkeeping or negligence.

Furthermore, the Head of the Safekeeping Department shall be responsible for any design/re-design, re-development necessary of the appropriate systems so as to implement the provisions arising from the above. The IT Department shall also participate in the systems development.

As a control procedure, the Internal Auditor shall check at least once a year the adequacy of the procedures mentioned in this Section.

It is noted that in compliance with paragraph 13.6, the Commission may prescribe additional measures.

Third Party Selection

The Head of Safekeeping Department in conjunction with the Risk Manager shall be responsible for the third party selection process and their periodic (operational adequacy) review. The final decision to select the third party shall remain with the CEO of the Company.

In this respect, the Company shall:

(a) take the necessary steps to ensure that Clients' financial instruments deposited with a third party can be identified separately from the financial instruments belonging to the Company and from financial instruments belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection;

(b) take the necessary steps to ensure that Client funds deposited in the Central Bank, a credit institution or a bank authorised in a third country or a qualifying money market fund are held in an account or accounts identified separately from any accounts used to hold funds belonging to the Company.

The Head of the Safekeeping Department shall consider the following policy guidelines concerning Depositing Client Financial Instruments and Depositing Client Funds in all cases.

Where the Company places client funds with a third party, it shall exercise all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for holding and safekeeping client funds. In addition, the Company shall consider the need for diversification and mitigation of risks, where appropriate, by placing client funds with more than one third party in order to safeguard clients' rights and minimise the risk of loss and misuse.

Policy Guidelines: Depositing Client Financial Instruments

The Company may deposit financial instruments held on behalf of its Clients into an account or accounts opened with a third party provided that the Company exercises all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those financial instruments.

In particular, the Company shall take into account the expertise and market reputation of the third party, as well as any legal requirements or market practices related to the holding of those financial instruments that could adversely affect Clients' rights.

If the safekeeping of financial instruments for the account of another person is subject to specific regulation and supervision in a jurisdiction where the Company proposes to deposit Client financial instruments with a third party, the Company shall not deposit those financial instruments in that jurisdiction with a third party which is not subject to such regulation and supervision.

The Company shall not deposit financial instruments held on behalf of Clients with a third party in a third country that does not regulate the holding and safekeeping of financial instruments for the account of another person unless one of the following conditions is met:

(a) the nature of the financial instruments or of the investment services connected with those instruments requires them to be deposited with a third party in that third country;

(b) where the financial instruments are held on behalf of a Professional Client who requests the Company in writing to deposit them with a third party in that third country.

The Company shall hold Clients' financial instruments in such a regulated jurisdiction which allows the Company to comply with paragraph (a) of the "Third Party Selection" section.

The list of services provided by third parties, such as commercial authorised and licensed banking institutions, relating to Depositing Client Financial Instruments includes:

i. safekeeping of securities;
ii. clearing of transactions;
iii. provision of relevant information;
iv. participation in corporate actions.

More specifically, these services include the following activities:

i. safekeeping of securities and/or certification of Clients' rights on securities;
ii. acting as a trustee of custody account of Clients at settlements with other custodians;
iii. re-registration of rights of Clients at conducting operations with securities;
iv. initial control of documents and consultation of Clients regarding documents necessary for conducting operations;
v. realisation of Clients' rights on securities – reception of dividends, participation in general shareholders' meetings, etc.;
vi. blocking of securities according to instructions of Clients in connection with conducting mortgage, settlement or other operations with securities;
vii. providing the Clients with the information from the various issuers, addressed to shareholders.

The Company is not allowed to enter into arrangements for securities financing transactions in respect of financial instruments held by it on behalf of a client, or otherwise use such financial instruments for its own account or the account of any other person or client of the Company, unless both of the following conditions are met:

(a) the client has given his prior express consent to the use of the instruments on specified terms, as clearly evidenced in writing and affirmatively executed by signature or equivalent, and

(b) the use of that client's financial instruments is restricted to the specified terms to which the client consents

Policy Guideline: Depositing Client Funds

The Company shall, on receiving any Client funds, promptly place those funds into one or more accounts opened with any of the following:

(a) central bank;
(b) credit institution;
(c) bank authorised in a third country;
(d) qualifying money market fund.

If the Company does not deposit Client funds with a central bank, it is required to exercise all due skill, care and diligence in the selection, appointment and periodic review of the credit institution, bank or money market fund where the funds are placed and the arrangements for the holding of those funds. The Company shall take into account the expertise and market reputation of such institutions or money market funds with a view to ensuring the protection of Clients' rights, as well as any legal or regulatory requirements or market practices related to the holding of Clients' funds that could adversely affect Clients' rights.

Where the Company deposits funds it holds on behalf of a Client with a qualifying money market fund, the units in that money market fund should be held in accordance with the requirements for holding financial instruments belonging to Clients. Please refer to paragraph 1.36 regarding Clients' rights.

The Head of Safekeeping Department shall be responsible for implementing the provisions arising from the above by:

(a) opening separate accounts for Clients (Clients' Account or Accounts, as applicable) and the Company;
(b) performing due diligence in conjunction with the Risk Manager over the operational adequacy of the third parties so as to ensure that separate accounts are maintained for holding Client assets and Company assets through the review of (indicatively):

i. the terms of business;
ii. expertise;
iii. credit ratings;
iv. reputation;
v. references;
vi. availability of authorisation/specialised licenses, granted by the supervisory authority of the country of origin of the third party for the provision of services;
vii. availability of suitable staff members employed by the third party, in this respect;
viii. availability of information on shareholders, financial position and top managers of the third party;
ix. ability of third party to maintain the segregation of Clients' and Company's assets (between Clients and the Company).

Further to the above, the Head of Safekeeping shall be responsible for ensuring that the Company does not mix its own funds with the clients' funds. In this respect, the account(s) containing clients' funds should be labelled as "Clients' Account".

Where the Company deposits clients' funds with a credit institution, bank or money market fund of the same group as the Company, it limits the funds that is deposits with any such group entity or combination of any such group entities so that funds do not exceed 20% of all such funds.

The list of services provided by third parties, such as commercial authorised and licensed banking institutions, relating to Depositing Client Funds includes bank cash management services such as:

- keeping monetary funds on accounts;
- local and international wire transfers;
- electronic banking;
- cash transactions.

As regards policy formation, the Risk Manager shall set the minimum requirements for the selection of third parties after receiving recommendations also from the Head of Safekeeping Department. The Internal Auditor shall also be responsible for monitoring the selection process of third parties by the Safekeeping Department.

In selecting the third party, the Company shall enter with it into an appropriate agreement on the basis of which the third party offers its services. The Head of Safekeeping shall be responsible for the review of the agreement and the CEO of the Company shall sign the agreement.

The Clients of the Company have the right to oppose the placement of their funds in a qualifying money market fund by notifying their objection before the provision of the service through either the Client agreement or a written notification by the Client to the Company through a durable medium, as applicable.

The Internal Auditor shall be responsible for monitoring the reception of Client consent, as mentioned above.

As a further control, the Company's External Auditor shall submit to CySEC within four (4) months from the end of each financial year, a report in relation to the suitability of the measures taken by the Company so as to the safeguarding of the Clients' rights, especially in the event of the Company's insolvency, and to prevent the use of a Client's assets for own purpose except with the Client's express consent.

Informing Retail Clients of Third Party Selection

The Company is obligated to inform its Retail Clients about its intention to maintain their assets with a third party through either the information provided in the Client agreement or a durable medium prior to the provision of services, as applicable. In the latter case, the Head of Safekeeping Department shall be responsible for providing the information and obtaining the Client's express consent through a durable medium, and for ensuring the relevant documentation is on file.

Particularly the Company is responsible for informing Clients of the following:

(a) the responsibilities of the Company for any act or omissions of the third party;
(b) the consequences for the Client of the insolvency of the third party;
(c) the jurisdiction of the third party, if other than a member state, and the rights of the (potential) Client;
(d) provide clear, full and accurate information on the responsibilities of the Company in respect to the financial instruments, the terms for their restitution and the risks involved prior to entering into securities financing transactions in relation to financial instruments held by them on behalf of the Client.

As a control measure, the Internal Auditor shall be responsible for monitoring the reception and filling of the Client's consent as mentioned above.

Use of Client Financial Instruments

The Company shall not be allowed to enter into arrangements for securities financing transactions in respect of financial instruments held by it on behalf of a Client, or otherwise use such financial instruments for its own account or for the account of another Client of the Company, unless the following conditions are cumulatively met:

(a) the Client shall have given his prior express consent to the use of the instruments on specified terms, as evidenced, in the case of a Retail Client, by his signature or equivalent alternative mechanism;
(b) the use of that Client's financial instruments must be restricted to the specified terms to which the Client consents.

In keeping to the above, prior to entering into arrangements for securities financing transactions in respect of financial instruments held by the Company on behalf of a Client, the Head of Safekeeping Department shall review the Client's records and if the consent has not been obtained through the Client agreement, the Client's express consent should be obtained through a durable medium by the Head of Safekeeping Department, as applicable.

The Head of Safekeeping Department shall be responsible for informing the Clients about the Company's obligations and responsibilities in case it will be using Client's financial instruments through a durable medium.

As a control procedure, the Internal Auditor shall be monitoring whether the Client's consent has been obtained for the arrangement of securities financing transactions, as mentioned above.

The Company shall not enter into arrangements for securities financing transactions in respect of financial instruments which are held on behalf of a Client in an omnibus account maintained by a third party, or otherwise use financial instruments held in such an account for its own account or for the account of another Client, unless at least one of the following conditions is met:

(a) each Client whose financial instruments are held together in an omnibus account must have given prior express consent;
(b) the Company shall have in place systems and controls which ensure that only financial instruments belonging to Clients who have given prior express consent are so used.

The Company shall take appropriate measures to prevent the unauthorised use of client financial instruments for its own account or the account of any other person such as:

(a) the conclusion of agreements with clients on measures to be taken by the investment firms in case the client does not have enough provision on its account on the settlement date, such as borrowing of the corresponding securities on behalf of the client or unwinding the position;
(b) the close monitoring by the investment firm of its projected ability to deliver on the settlement date and the putting in place of remedial measures if this cannot be done; and
(c) the close monitoring and prompt requesting of undelivered securities outstanding on the settlement day and beyond.

The Company shall adopt specific arrangements for all clients to ensure that the borrower of client financial instruments provides the appropriate collateral and that the firm monitors the continued appropriateness of such collateral and takes the necessary steps to maintain the balance with the value of client instruments.

Prior to entering into arrangements for securities financing transactions in respect of financial instruments held on behalf of a Client in an omnibus account maintained by a third party, the Head of Safekeeping Department shall review the Client's records and if the consent has not been obtained through the Client agreement, the Client's express consent should be obtained through a durable medium, as applicable.

The Head of Safekeeping Department shall be responsible for informing the Clients about the Company's intention to maintain the Client's assets in an omnibus account through a durable medium.

As a control, the Internal Auditor shall be monitoring whether the Client's consent has been obtained for the arrangement of securities financing transactions, as mentioned above.

The records of the Company shall include details of the Client on whose instructions the use of the financial instruments has been affected, as well as the number of financial instruments used, belonging to each Client who has given his consent, so as to enable the correct allocation of any loss.

Reporting to Clients: Statements of Clients' Financial Instruments or Funds

The Company shall send at least once a year, to each Client for whom it shall hold financial instruments or funds, a statement in a durable medium of those financial instruments or funds unless such a statement has been provided in any other periodic statement. The statement of Client assets shall include the following information:

(a) details of all the financial instruments or funds held by the Company for the Client at the end of the period covered by the statement;
(b) the extent to which any Client financial instruments or Client funds have been the subject of securities financing transactions;
(c) the extent of any benefit that has accrued to the Client by virtue of participation in any securities financing transactions, and the basis on which that benefit has accrued.

In cases where the portfolio of a Client shall include the proceeds of one or more unsettled transactions, the information referred to in point (a) above may be based either on the trade date or the settlement date, provided that the same basis is applied consistently to all such information in the statement.

The Head of Safekeeping Department shall be responsible for sending the statements to Clients.

As a control, the Internal Auditor shall be monitoring the dispatch of the Client statements.

Documentation

The Safekeeping Department shall keep records of Clients' assets at least five (5) years commencing with the date on which the relevant business or all activities taking place in the course of transactions were completed. It shall also keep records of the statements sent to Clients regarding their financial instruments or/and funds.

A copy of the latter shall be sent to the Back Office Department.

The Internal Audit function is responsible for monitoring the record-keeping of the Safekeeping Department activities.