

TECHNICAL CIRCULAR:	3/2022 [TC 3_2022]
To:	ALL MEMBERS OF THE INSTITUTE
From:	Financial Services Committee
Date:	
Subject:	Illustrative Agreed Upon Procedures report pursuant to the requirements of the Directive for the safeguarding of client assets for Cyprus Investment Firms

The Institute of Certified Public Accountants of Cyprus releases the illustrative practitioner's report in pursuant to the requirements of the Directive for the safeguarding of client assets for Cyprus Investment Firms as follows:

Illustration	Agreed Upon Procedures report to the Cyprus Securities and Exchange Commission (the "CySEC") in respect of a Cyprus Investment Firm (CIF) pursuant to Paragraph 10 of the CySEC Directive DI87-01 of 2018 for the safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits.
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This circular replaces:

- Illustration A (regarding CIFs) of Technical Circular 3/2019 *Illustrative audit reports pursuant to the requirements of the Directives for the safeguarding of client assets for Cyprus Investment Firms and Banks* (refer [here](#)); and
- Technical Circular 4/2019 *Indicative audit program in relation to the issuance of the Independent Auditor's Report to the CySEC pursuant to paragraph 10 of the CySEC Directive for the Safeguarding of Client Assets, Product Governance Obligations and Inducements of 2017* (refer [here](#)).

The Technical Circular 3/2019 has now been revised to exclude the illustration relating to CIFs and only include the illustration for Banks (refer [here](#)).

Illustration - Agreed Upon Procedures report to CySEC in respect of a CIF pursuant to Paragraph 10 of the CySEC Directive DI87-01 of 2018 for the safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits

To the Board of Directors
[Engaging Party]
[City], Cyprus

Purpose of this Agreed-Upon Procedures Report and Restriction on Use and Distribution

Our report is solely for the purpose of assisting the Cyprus Securities and Exchange Commission (‘CySEC’), in determining whether [Engaging Party] is compliant with [Intended User]’s procurement policies and may not be suitable for another purpose. This report is intended solely for [Engaging Party] and CySEC and should not be used by, or distributed to, any other parties.

Responsibilities of the Engaging Party

[Engaging Party] has acknowledged that the agreed-upon procedures are appropriate for the purpose of the engagement. [Engaging Party (also the Responsible Party)] is responsible for the subject matter on which the agreed-upon procedures are performed.

Practitioner’s Responsibilities

We have conducted the agreed-upon procedures engagement in accordance with the International Standard on Related Services (ISRS) 4400 (Revised), *Agreed-Upon Procedures Engagements*. An agreed-upon procedures engagement involves our performing the procedures that have been agreed with [Engaging Party], and reporting the findings, which are the factual results of the agreed-upon procedures performed.

We make no representation regarding the appropriateness of the agreed-upon procedures.

This agreed-upon procedures engagement is not an assurance engagement. Accordingly, we do not express an opinion or an assurance conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported.

Professional Ethics and Quality Control

We have complied with the ethical and the independence requirements in the IESBA Code of ethics for professional accountants.

Our firm applies International Standard on Quality Control (ISQC) 1, *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements*, and accordingly, maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Procedures and Findings

We have performed the procedures described in Appendix 1, which were agreed upon with [Engaging Party] in our letter of engagement dated [DATE], on the safeguarding of client assets, product governance obligations and inducements of CIFs, pursuant to paragraph 10 of CySEC's Directive DI87-01 of 2017.

[Practitioner's signature]

[Date of practitioner's report]

[Practitioner's address]



Appendix 1

Paragraph	Requirement	Procedures	Findings
Safeguarding of client financial instruments and funds	(a) it must keep such records and accounts 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.	1. Obtain the Company's client list from the system which should contain as a minimum the following for each client: Client identification (ID) number, Client name, categorization (e.g., professional vs. retail) and closing balance at the end of the reporting period.	
		2. Select a random sample ¹ of X (*) clients from this list and check that the Company's systems (i.e., trading platforms and back office) can produce, at any point in time, a snapshot of each client's holdings, showing client name and/or ID, amount and type of investments, transaction date and time, opening and closing balance. In case of companies with own investments, check that the system can produce a similar snapshot for the own equity (i.e., cash and investments), giving particular attention to the name in which the own assets are recorded.	
		3. Inquire Management regarding the onboarding procedure of the clients for distinguishing assets held for one client from those held for another by verifying that each client is recorded in the system with a unique ID code. Inspect the Company's client list obtained in Procedure 1 to check no duplicate client ID codes exist.	

¹ In all cases where a sample is selected, it is expected that practitioners will describe in their procedures how this has been selected.

Paragraph	Requirement	Procedures	Findings
		<p>4. For the sample of clients selected in Procedure 2, obtain a transaction listing for the reporting period, reconciling opening balances to closing balances including deposits, withdrawals, purchases, sales, dividends, interest etc.</p> <p>For each client select one random transaction (money receipts and payments) and test that they are paid into or out of the client bank account or merchant accounts with PSPs/EMIs no later than 3 business days after they have been received/need to be paid.</p> <p>In cases where there are no other alternatives or a client erroneously deposits money into a Company own bank account, check that it is paid into a client bank account no later than the next business day following receipt.</p> <p>Check that the sampled receipts and payments relate to transactions with the CIF's clients only and not to clients of any other Group Entity that the CIF belongs to.</p>	
		<p>5. For the sample of clients selected in Procedure2 obtain a transaction listing for the reporting period, reconciling opening balances to closing balances including deposits, withdrawals, purchases, sales, dividends, interest etc.</p> <p>For each client select one random transaction (purchase or sale, where applicable) and test that they are recorded promptly and properly in the Company's internal records (for example trading platform, back office, accounting as applicable). Check the appropriate document of title exists, where applicable (eg. share certificate, subscription form).</p>	
	(b) it must 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, as well as that they can be used as an audit trail.	<p>6. For the sample of clients selected in Procedure 2, inspect the Company's internal records for:</p> <ul style="list-style-type: none"> i. Daily opening and closing balances, per client. ii. List of open positions providing trade details such as trade date and time, open price, instrument type, numbers of lots/units, unrealised profit/loss, etc. iii. Information on cash movements, i.e. deposits, withdrawals, receipts, transfers, credit limits, charges, fees, etc., per client. iv. Information on interest earned, per client, indicating amounts and dates paid to each client (here, also check the Company's workings for the calculation of the interest and bonus paid to each customer). v. Statements of holdings sent to clients on a periodic basis (in this respect, check also 	

Paragraph	Requirement	Procedures	Findings
		that statements are sent to clients at the required intervals, as specified by the client agreements). vi. Client money and Client instruments reconciliations.	
		7. Obtain and read customer complaints (if any) for evidence of any issues concerning the accuracy of the internal records of the Company.	
	(c) it must conduct, on a regular basis, reconciliations between its internal accounts and records and those of any third parties by whom those assets are held.	<p>8. Inquire Management regarding the reconciliation procedure (including segregation of duties) between its internal accounts and records and those of any third parties by whom those assets are held.</p> <p>Obtain an understanding of how frequently the CIF conducts reconciliations between its internal accounts and records and those of any third parties by whom those assets are held.</p> <p>Select a sample of X (*) daily reconciliations of clients' money and clients' financial instruments throughout the reporting period:</p> <p>Check that reconciliations are performed in line with the CIF's procedure and frequency, and that any reconciliation differences are promptly identified, properly explained and cleared as soon as possible (where clearance entails any shortfall to be topped up and any excess to be withdrawn).</p> <p><i>Note: The reconciliation of clients' financial instruments should consist of the comparison/matching of the trading platform(s) with external sub-custodian statements and should take into consideration not only the client instruments held by third party custodians, but also the ones held in physical form at the Company's premises (in which case the reconciliation will consist of a physical count and comparison with internal records) or in dematerialized form by the Company. As for the clients' money reconciliation, to be considered complete it should be performed at the following levels, or any combination of these:</i></p> <ul style="list-style-type: none"> - Bank & other Third-Party statements Vs. Client Assets (as per TB). - Bank & other Third-Party statements Vs. Client Liabilities (as per TB). - Client Liabilities (as per TB) Vs. Clients' Equity (as per Trading Platform(s)). <p><i>Our tests should consider whether the necessary controls exist to ensure that all client accounts and third-party statements are reconciled properly at regular intervals. For</i></p>	

Paragraph	Requirement	Procedures	Findings
		<i>this purpose, obtain a list of all accounts opened in third parties up to the period end, indicating the client accounts and whether they are used for holding funds or financial instruments.</i>	
		9. Examine through inspection whether that the reconciliations selected in Procedure 8, include evidence of segregation of duties.	
		10. Obtain evidence whether there is segregation of duties between the person performing the reconciliations and the person(s) who maintain the records to be reconciled and are involved in the recording and moving of client assets.	
		11. Send confirmation letters to all third parties where funds and financial instruments are kept. Investigate any difference upon receiving of confirmation replies.	
		12. Obtain the reporting period-end three way reconciliation (mentioned in Procedure 8 footnote) and agree the total value of client funds and financial instruments to confirmation letters obtained above and/ or alternatively to bank and other third party statements. Where third party records are maintained by a third party, obtain third party records/ statements, to reconcile the total value of funds and financial instruments per client to these third-party records.	
	(d) it must take the necessary steps to ensure that any client financial instruments deposited with a third party, in accordance with paragraph 5, 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 by other equivalent measures that achieve the same level of protection.	13. Obtain all the statements of client instruments from third party custodians and check that the description of client accounts indicates the client ownership (i.e. it contains the term “client(s)” or “client(s) account” or something similar).	
		14. In cases where Company owned instruments are held by the same third-party custodian as client instruments, establish that they are deposited in a different account than the account used to hold client instruments, and that the description of this account does not contain the term “client(s)” or “client(s) account” or something similar). Test this by checking a random sample of X (*) daily Company's reconciliations of its own portfolio, as well as the clients' portfolio reconciliation, for any evidence of lack of segregation (look for cases of reconciling items relating to client instruments kept in own accounts with the custodian, or vice versa). Where own and client instruments in third party custodian accounts are not separated due to legal reasons, the conditions of paragraph 5(3) of the Directive are applicable, and therefore the Procedures in section 2 must be performed.	

Paragraph	Requirement	Procedures	Findings
		15. In cases where third party custodian records present client instruments on a pooled/aggregated basis without indicating the customer name, check that proper records are kept by the Company to enable it to distinguish the instruments that belong to each client separately. To check this, obtain from the trading platform (or other equivalent), a list of all client's instruments held by client and indicating the third-party custodian where each instrument is kept or through the client securities reconciliations.	
		16. For a sample of X (*) randomly selected clients, compare the clients' instruments as per trading platform (or other equivalent) with third-party custodian statement of accounts and investigate any difference between internal and external records.	
		17. Where bearer documents of title are applicable, obtain a sample of X(*) randomly selected clients and instruments belonging to the CIF, to check that the owner can be identified and that it is readily apparent which investments relate to the Company (if applicable) and which to the client.	
		18. Obtain all the statements of client accounts with banks and other third parties as per the Directive and check that their description contains the term "client(s)" or "client(s) account" or something similar.	
	(e) it must take the necessary steps to ensure that client funds deposited, in accordance with paragraph 6, 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 CIF.	19. Inspect whether the client accounts at third parties have a "trust status". This can be performed by obtaining a written confirmation from the third party, stating that: (i) All money standing to the credit of the account is held by the Company as trustee (or if relevant, as agent) and that (ii) the bank/third party is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to it on any other account of the Company; and (iii) the description of the account sufficiently distinguishes that account from any account containing money that belongs to the Company and is in the form requested by the Company.	
		20. An exception to the trust status mentioned in Procedure 19 above is where in the country the funds are deposited for brokerage purposes, the country's legislation does not provide for the concept of nominee (trustee) account holder. In these cases, for a sample of X(*) clients, the auditor should obtain evidence to check that the CIF correctly communicates this issue to the client in writing (e.g. via the client agreements) and advises the client that the client funds are not segregated under MiFID II (since it does not follow MiFID II) so these funds are not protected in the same manner as in a MiFID II jurisdiction, in accordance with paragraph 4(3) of the Directive.	

Paragraph	Requirement	Procedures	Findings
		<p>21. In case where own funds are deposited with the same bank as client funds, inspect statements of own accounts to check that they are kept in one or more different bank accounts than the one(s) used to hold client funds, and that these accounts are under the Company's name.</p> <p>If own funds are kept in the same third-party account as client funds, inquire Management about the reason for doing so and that the Company is able to quantify the amount of its own money kept in client accounts at any point in time (a rationale could be that the own funds are equal to the credits granted to clients for facilitating their trading activity, or other). The auditor should state the reason why own funds are kept in the same third-party account as client funds in all cases.</p>	
	<p>(f) it must introduce adequate organisational arrangements to minimise 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 record- keeping or negligence.</p>	<p>Obtain supporting documentation (i.e methodology or equivalent) for the procedures that the Company has put in place with respect to:</p> <p>(a) the prompt and proper recording of client transactions in internal systems, such as trading platform, back office and accounting and the proper review of transactions recording by control functions and/or Senior Management.</p> <p>(b) the carrying out of client money and instruments reconciliations on a regular basis (i.e. daily) and as soon as practically possible after the date to which the reconciliation refers (i.e. not later than 5 business days after the reconciliation reference date).</p> <p>(c) the allocation of responsibility, and segregation of duties, for the client funds and instruments reconciliations and the escalating of reconciling items.</p> <p>(d) the assignment of proper signatories rights to at least two responsible individuals, who are not involved in the preparation of clients' reconciliations or are the shareholders of the CIF if they do not have executive duties within the CIF.</p> <p>(e) the record-keeping of client information, considering both physical and IT security issues (back up servers, hard files, access to systems etc.).</p> <p>(f) the safekeeping of clients' documents of title and any other client assets held in physical form (this can be achieved through safe boxes, fire-proof rooms and safes, restricted access via password-controlled doors or limited access to keys).</p> <p>(g) the carrying out of proper and continuing risk assessments of all third parties holding client money and client instruments.</p> <p>(h) the consideration for diversification of client funds when amounts are of sufficient size. The Large Exposures Directive may be considered on a case-by-case basis and depending on the particular circumstances of each CIF.</p>	

Paragraph	Requirement	Procedures	Findings
	<p>(2) If, for reasons related to the applicable law, including in particular the law relating to property or insolvency, the CIF cannot comply with the requirements of sub-paragraph 1 for the safeguarding of clients' rights regarding compliance with sections 17(8) and (9) of the Law, then the CIF shall put in place arrangements to ensure that clients' assets are safeguarded, in order to meet the objectives of sub- paragraph 1.</p> <p><i>Additional requirements TC 418 (point 6)</i></p> <p>CySEC prescribes below the requirements that CIFs must apply in case the applicable law of the jurisdiction in which the clients' funds are held, prevent them from complying with the requirement of par. 4(1)(e) of the Directive:</p> <p>a. CIFs must notify the entity of par. 6(1) of the Directive, with whom the clients' account is opened, that they are obliged to keep clients' funds separate from their own funds. This communication should be kept in the CIFs' records and be available for review by CySEC.</p> <p>b. CIFs must demonstrate to CySEC that they had no other alternative but to conduct such business, given the risk to clients' funds in the event of the entity's insolvency.</p> <p>c. CIFs must demonstrate to CySEC that they have done everything in their powers to obtain separately titled accounts, including using another third party.</p> <p>d. If a CIF cannot demonstrate to CySEC that it has fully applied the abovementioned requirements, then CySEC may request from the CIF to segregate an equivalent amount of its own funds in a separately titled account in another jurisdiction where the CIF can comply with the requirement of par. 4(1)(e) of Directive.</p>	<p>23. Obtain and read correspondence with CySEC during the year to check for any communication regarding the inability to comply with the requirements of sub-paragraph 1 for the safeguarding of clients' rights regarding compliance with sections 17(8) and (9) of the Law.</p> <p>24. Inquire Management for the CIF's arrangements to check that clients' assets are safeguarded, in order to meet the objectives of sub- paragraph 1. More specifically:</p> <p>a) Obtain a listing of the counterparties (i.e. banks or other credit institutions) that match the characteristics of paragraph 6(1)</p> <p>b) Inspect the communication between the CIF and the counterparties of the above listing, with whom the clients' account is opened, that they are obliged to keep clients' funds separate from their own funds as paragraph 6 (1) of the Directive and determine that this communication is readily available for review by CySEC.</p> <p>c) Obtain the assessment, analysis or any other records that demonstrate that the CIF had no other alternative procedure but to conduct such business, given the risk to clients' funds in the event of the entity's insolvency.</p> <p>d) Inquire whether the assessment, analysis or any other records as per above have been communicated to CySEC and whether CySEC had any objections/recommendations or approved it. Inspect that CySEC was notified and any subsequent communication.</p> <p>e) If there were any objections/recommendations enquire and obtain relevant evidence that appropriate actions have been taken.</p> <p>f) In case CIF did not demonstrate to CySEC that it has fully applied the abovementioned requirements as per a) - e):</p> <ul style="list-style-type: none"> - Inquire Management and inspect relevant communication with CySEC, - Obtain a listing of all the affected clients' accounts and total their equity at the reporting period end, - Inspect that the CIF segregated an equivalent amount from its own funds, to a separately titled account in another jurisdiction where the CIF can comply with the requirements of par. 4(1)(e) of Directive, - Check that the CIF is in compliance with the remedial actions, either by reading relevant communications with CySEC or other means 	

Paragraph	Requirement	Procedures	Findings
	(3) If the applicable law of the jurisdiction in which the client funds or financial instruments are held prevents the CIF from complying with points (d) or (e) of sub-paragraph 1, the Commission shall prescribe requirements with equivalent effect in terms of safeguarding clients' rights. The CIF, when relying on such equivalent requirements under sub- paragraph 1(d) or (e), shall inform its clients that in such instances they do not benefit from the provisions envisaged under the Law and this Directive.	25. Obtain a listing of third country banks and other third parties (including custodians) for whom the applicable law of the jurisdiction in which the client funds or financial instruments are held, prevents the CIF from complying with points (d) or (e) of paragraph 4(1) of the Directive.	
		26. Obtain and read relevant correspondence with the Commission and check that the prescribed requirements of the Commission that have an equivalent effect in terms of safeguarding clients' rights, are in place.	
		27. Inspect a sample of X (*) affected client agreements to check that explicit clauses exist informing them that they do not benefit from the provisions envisaged under the Law and this Directive.	
	(4) it shall ensure that security interests, liens or rights of set-off over client financial instruments or funds which enable third parties to dispose of the client's financial instruments or funds in order to recover debts that do not relate to the client or provision of services to the client are not permitted except where this is required by the applicable law in a third country jurisdiction in which the client funds or financial instruments are held. The CIF must, when entering into agreements that create such security interests, liens or rights of set- off, disclose that information to clients indicating to them the risks associated with those arrangements. Where security interests, liens or rights of set-off are provided by the CIF over client financial instruments or funds, or where the CIF has been informed that they have been provided, then these must be recorded in client contracts and to the CIF's own accounts in order to make	27. Inquire the Management as to whether the Company has made any such arrangements relating to security interests, liens or rights of set-off over client financial instruments or funds which enable third parties to dispose of the client's financial instruments or funds in order to recover debts that do not relate to the client or provision of services with any third parties and to provide a list of these.	
		28. If such arrangements were not made, inquire Management regarding the procedure of ensuring and monitoring that transactions of security interests, liens or rights of set-off over client financial instruments or funds which enable third parties to dispose of the client's financial instruments or funds in order to recover debts that do not relate to the client or provision of services to the client are not processed.	
		29. If such arrangements were made, inquire about the reasons that the Company has consented: - where it is not a legal requirement, an agreement is in place, duly signed by both parties, under which the transactions are explicitly explained. - it is a legal requirement in the third country jurisdiction of the custodian	

Paragraph	Requirement	Procedures	Findings
	the ownership status of the client's assets clear, such as in the event of an insolvency.	30. Obtain a sample of X (*) of all legal agreements or amendments to the existing agreements signed between the Company and banks and other third parties , irrespective of whether they are included in the listing provided above or not, and check whether these agreements contain terms that grant to the banks and other third parties a security interest, lien or right of set-off over client funds or financial instruments, and are included in the listing provided above. In a different case means no proper monitoring.	
		31. Select a sample of X (*) banks and other third parties from this list provided above and check that: - where it is not a legal requirement, an agreement is in place, duly signed by both parties , under which the transactions are explicitly explained. - it is a legal requirement in the third country jurisdiction in which the client funds or financial instruments are held.	
		32. If such an arrangement exists: - obtain a full listing of the affected clients - select a sample of X(*) affected clients and check through reading their duly executed agreement, addendum to an existing agreement or other, that the Company has informed them in writing, about: i. The existence of security interests, liens or rights of set-off over their funds and/or financial instruments, specifying where relevant, the services or products that these relate to, and the reasons for their existence (legal requirements in the country in which a third-party custodian holds the assets in question or other). ii. The risks that are associated with such arrangements, clearly stating what the ownership status of the affected client assets will be in the event of an insolvency and how this will be recorded in the client's trading account and in the CIF's own accounts.	
	(5) it must make information pertaining to clients' financial instruments and funds readily available to the competent authorities, appointed insolvency practitioners and those responsible for the resolution of failed institutions. The information to be made available shall include the following:	33. Inspect the organisational structure of the CIF and check that a single responsible officer is appointed, in line with paragraph 9 of the Directive.	
		34. Inquire the single responsible officer, to check that the below information pertaining	

Paragraph	Requirement	Procedures	Findings
	a) related internal accounts and records that readily identify the balances of funds and financial instruments held for each client;	<p>to clients' financial instruments and funds is properly kept, updated regularly, readily available, can be easily retrieved from the Company's systems and/or records and its availability at any point time is regularly monitored, so that the Company is in a position to provide it to the indicated bodies immediately upon request:</p> <p>a) related internal accounts and records that readily identify the balances of funds and financial instruments held for each client;</p> <p>b) where client funds are held by the CIF in accordance with paragraph 6, details on the accounts in which client funds are held and on the relevant agreements with those firms;</p> <p>c) where financial instruments are held by the CIF in accordance with paragraph 5, details on the accounts opened with third parties and on the relevant agreements with those third parties, as well as details on the relevant agreements with the CIF;</p> <p>d) details of third parties carrying out any related (outsourced) tasks and details of any outsourced tasks.</p>	
	b) where client funds are held by the CIF in accordance with paragraph 6, details on the accounts in which client funds are held and on the relevant agreements with those firms;		
	c) where financial instruments are held by the CIF in accordance with paragraph 5, details on the accounts opened with third parties and on the relevant agreements with those third parties, as well as details on the relevant agreements with the CIF;		
	d) details of third parties carrying out any related (outsourced) tasks and details of any outsourced tasks;		
	e) key individuals of the CIF which are involved in related processes, including those responsible for the oversight of the firm's requirements in relation to the safeguarding of client assets;		
	f) agreements relevant to the establishment of client ownership over the assets.		

Paragraph	Requirement	Procedures	Findings
	<p>5 (1) The CIF may deposit financial instruments held by the CIF on behalf of its clients into an account or accounts opened with a third party provided that the CIF 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.</p> <p>In particular, the CIF must take into account the expertise and market reputation of the third party, as well as any legal requirements related to the holding of those financial instruments that could adversely affect clients' rights."</p> <p>5 (2) The CIF may deposit client financial instruments with a third party, only where the third party is established in a jurisdiction where the safekeeping of financial instruments for the account of another person is subject to specific regulation and supervision and that third party is subject to this specific regulation and supervision.</p>	1) Obtain the CIF' policy / procedures applied in the process of selecting and approving third parties where client assets are deposited.	
		2) Inspect the CIF procedures to determine that that as a minimum it includes the following criteria: <ul style="list-style-type: none"> i. The third party where client assets are deposited is established and duly licensed / authorised in a jurisdiction where the safekeeping of financial instruments for the account of another person is subject to specific regulation and supervision and that third party is subject to this specific regulation and supervision. ii. Whether the third party will enable segregation of client accounts from those of the CIF's to address the event of bankruptcy or other financial difficulty of the third party iii. The third party of good repute and has the expertise iv. The credit rating or credit worthiness (if not available) of the third parties The below applies for third parties where client funds are deposited: <ul style="list-style-type: none"> v. the capital of the custodian vi. the amount of client funds placed, as a proportion of the custodian's capital and deposits vii. to the extent that the information is available, the level of risk in the investment and loan activities undertaken by the bank and its affiliated companies. 	
		3) Does the policy describe the assessment methodology i.e., how the above parameters are taken into consideration and evidenced?	
		4) Does the policy have a requirement for at least an annual update of the eligibility of each third party used?	
		5) Obtain listing of third parties which hold assets on behalf of clients.	

Paragraph	Requirement	Procedures	Findings
		6) Check whether a due diligence of all third parties (in the list obtained in point (5) above) where assets are held was performed within the last year, taking the above criteria into consideration	
		7) Check that due diligence results / assessment are / is reported to the Risk Management Committee or BoD and this is evidenced in the minutes.	
		8) Comment whether all third parties where client assets are held meet the minimum criteria as set in point (2) above	
		10) List the third countries where clients' FI are deposited (if applicable).	
	<p>5 (3) The CIF is not allowed to deposit financial instruments held on behalf of clients with a third party established 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:</p> <p>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 established in that third country;</p> <p>b) where the financial instruments are held on behalf of a professional client, that client has requested the CIF in writing to deposit them with a third party in that third country.</p>	<p>12) In case of any exceptions identified in relation to point (2)(i) above, check whether one of the following conditions is met:</p> <ul style="list-style-type: none"> i. the nature of the financial instruments or of the investment services connected with those instruments requires them to be deposited with a third party established in that third country ii. where the financial instruments are held on behalf of a professional client, that client has requested the CIF in writing to deposit them with a third party in that third country. <p>13) If point(1)(ii) applies, check that clients are correctly classified as professional and are not elective professional clients.</p>	
	<p>5 (4) The requirements of sub-paragraphs (2) και (3) shall also apply when the third-party has delegated any of its functions concerning the holding and safekeeping of financial instruments to another third-party.</p>	<p>14) Inquire as to whether any of the third party have delegated their functions concerning the holding and safekeeping of financial instruments to another third-party</p> <p>15) If point (11) above applies check that points (2)(i) and (10) are met</p>	

Paragraph	Requirement	Procedures	Findings
Depositing client funds	<p>A CIF must, on receiving any client funds, promptly place those funds into one or more accounts opened with any of the following:</p> <ul style="list-style-type: none"> (a) central bank; (b) credit institution; (c) bank authorised in a third country; (d) qualifying money market fund. <p>C458: It is provided that the title of the clients' account sufficiently distinguishes that account from any account used to hold funds belonging to the CIF, as it is required by par. 4(1)(e) of the Directive (i.e. denoted as clients' accounts).</p>	<ol style="list-style-type: none"> 1. Obtain the Company's bank statements for all accounts maintained and consider whether the clients' funds are clearly distinguished from the company's own funds. 2. Inspect that the clients' funds are deposited in bank accounts clearly denoted as "Clients' accounts" whereas Company's own funds are kept in different bank accounts under the Company's name. 3. Examine whether the client accounts at third parties have a "trust status" (this can be checked by obtaining a written confirmation from the third party, stating that: (a)"All money standing to the credit of the account is held by the Company as trustee (or if relevant, as agent) and that the bank/third party is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to it on any other account of the Company; and (b) the title of the account sufficiently distinguishes that account from any account containing money that belongs to the Company". An exception to the "trust status" mentioned in (a) above is where in the country the cash is deposited in a transaction account with a third party in order to make a specific transaction for the client, the country's legislation does not provide for the concept of nominee (trustee) account holder. 4. In case there is an exception as per point 3 above check that the CIF correctly communicates this issue to the client in a durable medium and before depositing the funds, advising him that the client cash is not segregated and his cash is not protected the same manner as per the relevant MiFID rules. 	
	<p>C458.</p> <p>Having exercise the powers provided for in par. 4(2) of the Directive, CySEC prescribes below the requirements that CIFs must apply in case the applicable law of the jurisdiction in which the clients' funds are held, prevent them from complying with the requirement of par. 4(1)(e) of</p>	<p>If the exception of point 3 above applies:</p> <ol style="list-style-type: none"> 5. Check whether there is relevant communication to verify that the CIF has notified its third party that the account is opened for the purpose of keeping client funds and is obliged to keep clients' funds separate from their own funds. 6. Enquire and request to obtain documented evidence of the steps taken by the CIF in relation to the following: 	

Paragraph	Requirement	Procedures	Findings
	<p>the Directive (clients' accounts identified separately from any accounts used to hold funds belonging to the CIF):</p> <p>a. CIFs must notify the entity of par. 6(1) of the Directive, with whom the clients' account is opened, that they are obliged to keep clients' funds separate from their own funds. This communication should be kept in the CIFs' records and be available for review by CySEC.</p> <p>b. CIFs must demonstrate to CySEC that they had no other alternative but to conduct such business, given the risk to clients' funds in the event of the entity's insolvency.</p> <p>c. CIFs must demonstrate to CySEC that they have done everything in their powers to obtain separately titled accounts, including using another third party.</p> <p>If a CIF cannot demonstrate to CySEC that it has fully applied the abovementioned requirements, then CySEC may request from the CIF to segregate an equivalent amount of its own funds in a separately titled account in another jurisdiction where the CIF can comply with the requirement of par. 4(1)(e) of Directive</p>	<p>I.the reason the CIF has provided for taking the decision to deposit client funds with the specific institution including alternatives for depositing client funds</p> <p>II.the CIF has approached and demanded segregation have done everything in their powers to obtain separately titled accounts, including using another third party</p> <hr/> <p>7. Read correspondence with CySEC in relation to this matter and check whether CySEC has requested from the CIF to segregate an equivalent amount of its own funds in a separately titled account in another jurisdiction where the CIF can comply with the requirement of par. 4(1)(e) of Directive.</p> <hr/> <p>8. Check whether the CIF complied with the above instructions from CySEC within the pre-determined period of time and whether continues to be in compliance.</p>	
	<p>Where the CIF does not deposit client funds with a central bank, the CIF shall 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 and take into consideration the need for diversification of these funds as part of the required due diligence.</p>	<p>9. Please refer to points 1 – 9 of Section 2 (Depositing Client FI)</p> <hr/> <p>10. In relation to diversification check the below:</p> <p>I.The CIFs policy addresses the need for diversification when depositing client funds.</p> <p>II.If there is need for diversification (as per the Firm's policy) if this has been applied.</p>	
	<p>In particular, the CIF must take into account the expertise and market reputation of such institutions or money market funds with a view to ensuring the protection of clients'</p>		

Paragraph	Requirement	Procedures	Findings
	<p>rights, as well as any legal or regulatory requirements or market practices related to the holding of client funds that could adversely affect the clients' rights.</p> <p><u>C458 – Section D</u></p> <p>15. CIFs are expected on a regular basis (and no less than once in each financial year) to perform due diligence procedures of the banks where clients' funds are placed.</p> <p>16. CIFs should consider diversifying placements of client funds with more than one bank where the amounts are, for example, of sufficient size to warrant such diversification.</p> <p>17. CySEC expects CIFs to consider the following when selecting a bank where clients' funds are placed:</p> <ul style="list-style-type: none"> a. the capital of the bank; b. the amount of client funds placed, as a proportion of the bank's capital and deposits; c. the credit rating of the bank (if available); and <p>16. CIFs should consider diversifying placements of client funds with more than one bank where the amounts are, for example, of sufficient size to warrant such diversification.</p> <p>17. CySEC expects CIFs to consider the following when selecting a bank where clients' funds are placed:</p> <ul style="list-style-type: none"> a. the capital of the bank; b. the amount of client funds placed, as a proportion of the bank's capital and deposits; c. the credit rating of the bank (if available); and 		

Paragraph	Requirement	Procedures	Findings
	d. to the extent that the information is available, the level of risk in the investment and loan activities undertaken by the bank and its affiliated companies.		
	The CIF must ensure that clients give their explicit consent to the placement of their funds in a qualifying money market fund. In order to ensure that this right to consent is effective, the CIF inform its clients that funds placed with a qualifying money market fund will not be held in accordance with the requirements for safeguarding client funds, which are set out in this Directive.	<p>11. In case the CIF deposits client funds with a QMMF:</p> <p>I. Check that there is a policy in place to ensure that the MMF meets the minimum criteria to qualify for the purposes of the Directive, as these are defined in Par. 2 of the DI87-012</p> <p>II. Check that the CIF has taken the above into consideration during its Due Diligence assessment of the MMF</p> <p>III. Check that the Fund(s) meets the relevant criteria</p> <p>IV. For sample of clients (*) check whether there is evidence that the clients' explicit consent has been obtained.</p> <p>V. For sample of clients (*) that the CIF has informed its clients that funds placed with a QMMF will not be held in accordance with the requirements for safeguarding client funds, which are set out in the Directive.</p>	
	<p>Depositing clients' funds with a bank or qualifying money market fund of the same group as the CIF:</p> <p>Where the CIF deposits client funds with a credit institution, bank or money market fund of the same group as the CIF, then the CIF must limit the funds that are deposited with any such group entity or combination of any</p>	<p>Where the CIF deposits client funds with a credit institution, bank or money market fund of the same group as the CIF, then:</p> <p>12. Check that the CIF's policy provides for the 20% rules.</p> <p>13. Obtain and recalculate the percentage of deposits in each group entity and collectively as a group to the total deposited funds</p>	

² "qualifying money market fund", means a collective investment undertaking authorised under Directive 2009/65/EC, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), or which is subject to supervision and, if applicable, authorised by an authority under the national law of the authorising Member State, and which satisfies all of the following conditions: a) its primary investment objective must be to maintain the net asset value of the undertaking either constant at par (net of earnings), or at the value of the investors' initial capital plus earnings; b) it must, with a view to achieving that primary investment objective, invest exclusively in high quality money market instruments with a maturity or residual maturity of no more than 397 days, or regular yield adjustments consistent with such a maturity, and with a weighted average maturity of 60 days. It may also achieve this objective by investing on an ancillary basis in deposits with credit institutions; c) it must provide liquidity through same day or next day settlement. For the purposes of point (b), a money market instrument shall be considered to be of high quality if the management/ investment company performs its own documented assessment of the credit quality of money market instruments that allows it to consider a money market instrument as high quality. Where one or more credit rating agencies registered and supervised by ESMA have provided a rating of the instrument, the management/investment company's internal assessment should have regard to, inter alia, those credit ratings.

Paragraph	Requirement	Procedures	Findings
	<p>such group entities so that the funds do not exceed 20% of all such funds. The CIF may not comply with this limit where it is able to demonstrate that, in view of the nature, scale and complexity of its business, and also the safety offered by the third parties referred to in above, and including in any case the small balance of client funds that the CIF holds, the requirement under the previous subparagraph is not proportionate. The CIF periodically reviews the assessment made in accordance with this subparagraph and notifies its initial and revised assessments to the Commission.</p> <p>C458 – Section E</p> <p>19. The CIF may not comply with this limit where it is able to demonstrate that, in view of the nature, scale and complexity of its business, and also the safety offered by the third parties referred to in above and including in any case the small balance of client funds that the CIF holds, the requirement under the par. 6(3) of the Directive is not proportionate. The CIF periodically reviews the assessment made in accordance with this subparagraph and notifies its initial and revised assessments to CySEC.</p> <p>20. CySEC considers that a CIF in the context of complying with its obligation to periodically review its initial assessment it should undertake:</p>	<p>14. In case the 20% rule is not followed:</p> <p>I.by obtaining supporting evidence, check that the CIF has assessed the non-compliance reasonableness and validity in line with the ‘small balance rule’³;</p> <p>II.Obtain and read communication with CySEC and check whether the Commission has been notified of the exception and consider whether the CIF has complied with CySEC’s response / required next steps (if applicable);</p> <p>III.Obtain the reviews of the assessment in place and check that these are performed at least annually (except when a change in the circumstances arises that might have led the CIF to a different conclusion on its previous assessment) and that the Commission is notified accordingly if the exception continues to apply.</p> <p>IV.Check whether the CIFs continuously monitors that it meets the thresholds of ‘the small balance rule’ and in the even these are exceeded it take immediate action (and no later than the next business day) to reduce the reduce the balance deposited with Group entities.</p> <p>15. Check whether the CIF monitors daily the balances kept with other Group entities to ensure that:</p> <p>I.the 20% rule is maintained on a continuous basis (unless the CIF falls under the ‘small balance rule’ of test 14.1 above.</p> <p>II.For any exceptions identified check whether the CIF has made relevant arrangements (by the end of the next day that the issue was identified) to ensure compliance (i.e. transferred client funds to another third party).</p>	

³ At any point of time, the lower of the:

a. €3.000.000

b. 50% of the total clients’ funds held by the CIF.

Paragraph	Requirement	Procedures	Findings
	<p>a. a review and, where appropriate, should consider ceasing to use this exception when a change in the circumstances arises that might have led the CIF to a different conclusion on its previous assessment;</p> <p>b. a review at least when a year has elapsed since its previous assessment.</p> <p>21. CySEC considers that the amount of small balance of clients' funds with a bank or money market fund of the same group as the CIF should be, at any point of time, the lower of the:</p> <p>a. €3.000.000</p> <p>b. 50% of the total clients' funds held by the CIF.</p> <p>22. Where the threshold stated above has been exceeded due to circumstances not attributable to the CIF's actions or omissions such as a money transfer by a client, dividend, coupon or other income payments, interest payments derived from a bank account the CIF shall take immediate action to reduce the balance with bank or money market fund of the same group as the CIF within the allowable limit.</p>		
	<p>7. CIFs may maintain merchant accounts with PSPs and EMIs for, among other purposes, the clearing/settlement of their clients' payment transactions (inwards and outwards payments).</p>	<p>16. Check whether the CIF maintains any client balances with PSP / EMIs.</p>	
	<p>8. CIFs must, at all times, ensure that clients' funds are transferred to clients' accounts held by the CIF with an entity, as defined in point 4 above, immediately after the clearing/settlement of the payment transactions.</p>	<p>17. For sample (*) of client deposits in merchant A/cs check whether clients' funds are transferred to clients' accounts held by the CIF, immediately after the clearing/settlement of the payment transactions and no later than the next business day.</p>	

Paragraph	Requirement	Procedures	Findings
	9. Where it is the CIF's policy, upon accepting a deposit through electronic means and before the clearing of the funds, to credit its client trading account with the corresponding amount in order for the client to trade with immediate effect, the CIF must ensure that the corresponding amount is transferred before trading, unless part G below applies, from its own funds to client account held by the CIF with an entity, as defined in point 4 above. These funds are considered as clients' funds and are subject to the corresponding regulatory requirements.	18. Check how the client available balances for trading is updated in the CIF's systems and check that funds are only made available after the clearing of funds unless the corresponding amount is transferred before trading, from the CIF's own funds to client account held by the CIF.	
		19. For the reconciliation performed as at the end of the period under review, check whether any differences relate to funds deposited by the client(s) in merchant accounts and whether the respective amount was transferred from the CIF's own funds to the client bank account no later than the next business day.	
	10. Where the PSP/EMI withhold funds, as rolling reserve or fix deposit, for chargeback or other purposes, for a period of time before releasing the funds to the CIF, the CIF must ensure that the funds equal to rolling reserves or fix deposits, are transferred from the CIF's own funds in the clients account held by the CIF with an entity, as defined in par. 4 above, to ensure compliance with the provisions of par. 6(1) of Directive.	20. Obtain any agreements with PSP / EMIs and check for any provisions for rolling reserve / fix deposit requirements.	
		21. Check whether funds equal to rolling reserves or fix deposits, are transferred from the CIF's own funds in the clients account held by the CIF.	
	11. CIFs' merchant accounts must not, under any circumstances, be used by their connected persons, or third persons, and/or the clients of those persons, for the clearing/settlement of their payment transactions, as this does not comply with the relevant provisions of the legislation. Merchant accounts must be used only and exclusively by CIFs.	22. Obtain agreement with the PSPs / EMIS and ensure that only the CIF is the contracting party and not any other third party or the Group entity)	
		23. Obtain evidence to check that only the CIF's employees (as included in its organisational chart) are authorised to manage PSP/EMI accounts (where clients' funds are deposited).	
		24. Select a sample (*) of deposits and withdrawals in the PSP / EMI a/cs held by the CIF and check that these can be traced to the CIF's clients' CID, testing that these are clients of the Company only.	
	12. The CIF must exercise all due skill, care and diligence in the selection, appointment and periodic review of the PSP/EMI with whom merchant accounts are maintained.	25. Verify that the Company extends its Due diligence process to PSPs (as these are indicated in points 1 – 9 of Section 2 (Depositing Client FI)).	

Paragraph	Requirement	Procedures	Findings
	CIFs may be considered that they have taken every possible measures and introduced adequate organisational arrangements to protect their clients' funds, only if they maintain a merchant account with PSP/EMI which are licensed/regulated by a competent authority of a Member State or of a third country, which it is considered that it imposes equivalent arrangements to those of the European Union and in particular, to those of the European Directives 2005/06/EC1 and 2007/64/EC2.		
	13. For purposes of transparency and full information of investors, CIFs are requested to post on their websites a list with the names of the PSP/EMI they cooperate, as well as the competent authority/country that supervise them.	26. Access the CIF's website and check whether clients can be informed about the details of all PSPs offered by the Company (i.e., a list with the names of the PSP/EMI they cooperate, as well as the competent authority/country that supervise them)	

Paragraph	Requirement	Procedures	Findings
Use of client financial instruments	<p>The CIF is not allowed to enter into arrangements for securities financing transactions in respect of financial instruments held by the CIF 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 CIF, unless both of the following conditions are met:</p> <p>(a) the client has given his prior express consent for the use of the instruments on specified terms, as evidenced expressly and in writing and affirmatively executed by signature or in an equivalent manner, and;</p> <p>(b) the use of that client's financial instruments is restricted to the specified terms to which the client consents.</p>	<p>(a) Obtain a list of all clients who have given their consent to the CIF to use their financial instruments for own account or for the account of another person or client of the CIF.</p> <p>For a sample (*) of clients:</p> <p>i. Check that the contracts are signed by both parties (CIF and client).</p> <p>ii. Inspect the specific terms of the contract and check that the client's consent has been granted.</p> <p>(b) Obtain a list of all transactions in which client financial instruments have been used by the CIF.</p> <p>For a sample (*) of these transactions check whether the CIF has complied with the contractual terms by:</p> <p>i. Inspecting the existence of the client's express consent (through the underlying contract).</p> <p>ii. Agree whether the selected transactions are consistent with the terms of the corresponding contract(s).</p> <p>iii. Enquire and document how the client receives notice of such transactions performed, for example through separate statements of account sent electronically or other means of notification.</p>	

Paragraph	Requirement	Procedures	Findings
	<p>A CIF is not allowed to 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 any other person unless, in addition to the conditions set out in subparagraph (1), at least one of the following conditions is met:</p> <p>(a) each client whose financial instruments are held together in an omnibus account must have given prior express consent in accordance with subparagraph (1)(a);</p> <p>(b) the CIF must have in place systems and controls which ensure that only financial instruments belonging to clients who have given prior express consent in accordance with subparagraph (1)(a) are so used.</p>	<p>(a) Obtain a list of clients the financial instruments of which are held in an omnibus account maintained by a third party and who have given their express consent to the CIF to use their financial instruments for own account.</p> <p>For a sample (*) of such clients:</p> <p>i. Check that the contracts are signed by both parties (CIF and client).</p> <p>ii. Inspect the specific terms of the contract and check that the client's consent has been granted.</p> <p>(b) Enquire and document as to how the CIF ensures that only financial instruments belonging to clients who have given prior express consent are so used.</p> <p>(c) Check that the CIF reflects the amount of securities used on the client statement (or note on the statement that some of the clients' securities may be used, in cases where it is not possible to identify the amount of securities used per client).</p>	
	<p>The records of the CIF must 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 to belong to each client who has given his consent, so as to enable the correct allocation of any loss.</p>	<p>Obtain a list of all transactions in which financial instruments of clients have been affected.</p> <p>For a sample (*) of transactions check whether the records of the CIF include documentation:</p> <p>(a) Reference to the contract under which consent is granted.</p> <p>(b) Working in relation to the allocation of profits/losses in compliance with the contractual terms.</p> <p>(c) Notification to the client regarding the allocated profits or losses.</p> <p>(d) Evidence of client's acceptance of the allocation (if applicable). If not applicable, obtain and inspect the CIF's client complaints log and correspondence with the Financial Ombudsman to identify any complaints relating to the allocation of profit or losses</p> <p>(e) Reconciliation between client's position and CIF's position regarding the allocation and explanations for reconciling items.</p>	

Paragraph	Requirement	Procedures	Findings
	<p>The CIF takes appropriate measures to prevent the unauthorised use of client financial instruments for its own account or the account of any other person such as:</p> <p>(a) the conclusion of agreements with clients on measures to be taken by the CIF 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;</p> <p>(b) the close monitoring by the CIF of its projected ability to deliver on the settlement date and the putting in place of remedial measures in the event that this cannot be done; and</p> <p>(c) the close monitoring and prompt request of undelivered securities outstanding on the settlement day and beyond.</p>	<p>(a) For a sample (*) of custody clients agreements inspect the terms of the agreements signed (e.g. this can be evidenced by the client's signature or by the electronic recording of client acceptance via an electronic system maintained by the Company that tracks the acceptance of the terms of the agreement when the client is asked to read the terms and tick a box to indicate his understanding and consent of the terms) and check that they contain clauses that state, the measures that the Company will take in the event that the client does not have enough provision on its account on the settlement date of a specific transaction.</p> <p>(b) Enquire and obtain relevant evidence as to whether the Company has a documented procedure to:</p> <ol style="list-style-type: none"> Closely monitor the settlement date of each transaction carried out on behalf of its clients. Estimate how it will be able to deliver the required cash or financial instruments to the affected clients on the scheduled settlement date. Have in place remedial measures in case it is not in a position to deliver on the settlement date. Follow up, immediately and without delay, on any securities that remain outstanding on the settlement day and beyond (e.g. DvP failures), by contacting the third party that is responsible for delivering the cash or the financial instruments to the client, and enquiring about the delay, and informing the client accordingly. <p>(c) Inspect any specific client complaints from the CIF's complaints log and through reading correspondence with the Financial Ombudsman and how these were resolved.</p> <p>(d) Inquire the single officer appointed pursuant to paragraph 9 of the Directive about the monitoring procedures of the CIF and check that the CIF requests immediately and without delay any undelivered securities outstanding on the settlement day and beyond.</p>	

Paragraph	Requirement	Procedures	Findings
	The CIF must adopt specific arrangements for all clients to ensure that the borrower of client financial instruments provides the appropriate collateral and that it monitors the continued appropriateness of such collateral and takes the necessary steps to maintain the balance with the value of client instruments.	<p>(a) Inquire about the CIF's specific arrangements for all clients to check that the borrower of client financial instruments provides the appropriate collateral and that it monitors the continued appropriateness of such collateral and takes the necessary steps to maintain the balance with the value of client instruments.</p> <p>For sample (*) of transactions:</p> <ul style="list-style-type: none"> i. Check that the value of client financial instruments borrowed from the client is proportionate to the collateral given by the borrower at inception in line with the agreement. ii. Enquire and document how management monitors the value of the financial instrument borrowed from the client in line with their policy and that is proportionate to the collateral given by the borrower. iii. Inspect communication with borrowers requesting additional collateral to maintain a secured position with the borrower (e.g. margin) relating to the client's financial instruments being borrowed. <p>For sample (*) of securities financing transactions:</p> <ul style="list-style-type: none"> i. Check that the type and value of the collateral provided to the client- lender of financial instruments was appropriate at initiation. ii. Check that Management monitors the transaction. Also check that the records of the above processes are maintained by the Company. 	
	The CIF does not enter into arrangements which are prohibited under section 17(10) of the Law (i.e., title transfer financial collateral arrangements with retail clients for the purpose of securing or covering present or future, actual or contingent or prospective obligations of clients).	<p>(a) Obtain a list of all the clients with which the CIF has entered into title transfer collateral arrangements together with their client classification (retail/corporate).</p> <p>Inspect the list to check whether any such arrangements have been entered into with retail clients.</p> <p>Check that the classification for a sample (*) of clients agrees with the Company's system(s).</p>	

Paragraph	Requirement	Procedures	Findings
Governance arrangements concerning the safeguarding of client assets	The CIF appoints a single officer of sufficient skill and authority with specific responsibility for matters relating to the CIF's compliance with its obligations regarding the safeguarding of client financial instruments and funds. The CIF decides, by ensuring full compliance with this Directive, whether the appointed officer is to be dedicated solely to this task or whether the officer can discharge responsibilities effectively whilst having additional responsibilities.	1) Enquire as to whether and which person or persons within the CIF have been assigned with responsibilities relevant to the safeguarding of client funds. 2) State this person's relevant experience and authority / level within the CIF, and how the CIF justifies this person appropriateness (e.g. his/her work experience, academic/professional qualifications, any relevant seminars attended, other).	
C418, Par. 28	According to par. 9 of the Directive a CIF should appoint a single officer of sufficient skill and authority with specific responsibility for matters relating to the CIF's compliance with its obligations regarding the safeguarding of client financial instruments and funds. A single officer with overall responsibility for the safeguarding of client instruments and funds should be appointed in order to reduce risks of fragmented responsibility across diverse departments, especially in large and complex CIFs, and to remedy unsatisfactory situations where CIFs do not have overarching sight of their means of meeting their obligations.	3) Enquire whether this person also holds other positions within the Company and if yes, state which are these in the Report findings. 4) Enquire whether the CIF maintains documented policies and procedures on the responsibilities of this function, and that in these policies and procedures clearly states and describes the role of the 'single officer'.	
C418, Par. 29	The single officer should possess sufficient skills and authority in order to discharge duties effectively and without impediment, including the duty to report to the CIF's senior management in respect of oversight of the effectiveness of the CIF's compliance with the safeguarding of client assets requirements.	5) Check whether the 'single officer' reports to senior management on a regular basis, and state in the report the frequency and type (eg. Report, email, meeting, etc) of such reporting for the reporting year.	
C418, Par. 30	The single officer is expected to verify the accuracy and completeness of the clients' money reconciliation that is included in CySEC's QST-CIF Form (ie. Reconciliation Tab).	6) Obtain evidence that the 'single officer' reviews and verifies the accuracy and completeness of the clients' money reconciliation that is included in CySEC's QST-CIF Form (i.e. Reconciliation Tab)	
C418, Par. 31	CIFs are expected to complete and keep up to date the details of their single officer for the safeguarding of client financial instruments and funds in CySEC's portal.	7) Obtain print screen from CySEC's portal and check that is maintained up to date with the details of their 'single officer'.	



Paragraph	Requirement	Procedures	Findings
C418, Par. 37	As far as clients' accounts with entities of par. 4(1) of the Directive are concerned, CIFs must ensure that there are at least two persons with combined signatory powers. It is stressed that the following persons cannot be appointed as signatories: a. the persons involved in the preparation of clients' reconciliations and b. the shareholders of the CIF if they do not have executive duties within the CIF.	8) Obtain a list of signatories for the accounts maintained with entities of par. 4(1) of the Directive and check whether there are at least 2 signatories for each account with combined powers.	
		9) Check that none of the following persons act as signatories for the accounts maintained with entities of par. 4(1) of the Directive: a. the persons involved in the preparation of clients' reconciliations and b. the shareholders of the CIF if they do not have executive duties within the CIF	