

Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to 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 (Text with EEA relevance)

## CHAPTER II

### SAFEGUARDING OF CLIENT FINANCIAL INSTRUMENTS AND FUNDS

#### *Article 4*

#### **Depositing client funds**

1 Member States shall require investment firms, on receiving any client funds, promptly to place those funds into one or more accounts opened with any of the following:

- a a central bank;
- b a credit institution authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council<sup>(1)</sup>;
- c a bank authorised in a third country;
- d a qualifying money market fund.

The first subparagraph shall not apply to a credit institution authorised under Directive 2013/36/EU in relation to deposits within the meaning of that Directive held by that institution.

2 Member States shall require that, where investment firms do not deposit client funds with a central bank, they 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 they consider the need for diversification of these funds as part of their due diligence.

Member States shall ensure, in particular, that investment firms 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 client funds that could adversely affect clients' rights.

Member States shall require that investment firms ensure that clients give their explicit consent to the placement of their funds in a qualifying money market fund. In order to ensure this right to consent is effective, investment firms shall inform clients that funds placed with a qualifying money market fund will not be held in accordance with the requirements for safeguarding client funds set out in this Directive.

3 Member States shall require that, where investment firms deposit client funds with a credit institution, bank or money market fund of the same group as the investment firm, they limit the funds that they deposit with any such group entity or combination of any such group entities so that funds do not exceed 20 % of all such funds.

---

**Status:** This is the original version (as it was originally adopted).

---

An investment firm 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 considered in the previous subparagraph, and including in any case the small balance of client funds the investment firm holds the requirement under the previous paragraph is not proportionate. Investment firms shall periodically review the assessment made in accordance with this subparagraph and shall notify their initial and reviewed assessments to NCAs.

- (1) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ([OJ L 176, 27.6.2013, p. 338](#)).