



payments and crypto network

Safeguarding arrangements

A series of guides addressing the subject of safeguarding customer funds for UK authorised Electronic Money Institutions (“EMI”) and Payment Institutions (“PI”).

Guidance is provided for firms and is not intended as legal advice.

Guide 3: Safeguarding Policy

Background

UK authorised EMI and PI businesses must adhere to the regulatory requirements defined in the Electronic Money Regulations 2011 (“EMR”) and the Payment Service Regulations 2017 (“PSR”) as well as associated guidance from the UK’s Financial Conduct Authority (“FCA”).

The EMR and PSR require firms to safeguard funds that are received from customers in relation to the provision of payment services or the issuance of e-money.

The safeguarding requirements are designed to protect customers, where their funds are held by a firm, by ensuring that those funds are either placed in a separate bank account (from the firm’s own funds), or are covered by an appropriate insurance policy or comparable guarantee. On the insolvency of a firm, the claims of e-money holders, or payment service users, are paid from the asset pool formed from these funds in priority to all other creditors.

Firms are also required to ensure that appropriate organisational arrangements are in place to protect the safeguarded funds which are sufficient to minimise *“the risk of the loss or diminution of relevant funds or assets through fraud, misuse, negligence or poor administration”*.

These arrangements will involve the development of a number of policies and procedures designed to meet regulatory requirements and associated guidance from the FCA. Safeguarding policies and procedures would form part of the regulatory compliance arrangements and would therefore be addressed in the firms’ Compliance Manual, with ongoing compliance monitoring through the operation of the Compliance Monitoring Programme.

However, given the importance of this particular area of compliance and the increasing focus of the FCA on ensuring that firms are meeting the safeguarding requirements, it is prudent to



prepare a stand-alone Safeguarding Policy to detail all of the relevant safeguarding policies and procedures, at an appropriate level of detail, in one place. The separate Safeguarding Policy document would be referenced in the Compliance Manual.

What should be covered in a Safeguarding Policy?

A Safeguarding Policy document should state the policies, and provide procedural descriptions, that cover all of the areas within scope of the safeguarding requirements that apply to the businesses. The Safeguarding Policy should be referenced in the Compliance Manual and be used to provide a greater level of detail than could reasonably be included in a (top-level) Compliance Manual. Areas that could be covered in a Safeguarding Policy include:

- Document Overview
 - *Purpose*
 - *Objective*
 - *Scope*
- Responsibility
 - *Board responsibility*
 - *Senior management responsibility*
 - *Compliance Manager responsibility*
- Legal and Regulatory considerations
 - *Summary of regulatory requirements*
 - *What funds need to be safeguarded?*
 - *How must funds be safeguarded?*
 - *Safeguarding funds received from payment services / e-money services*
- Overview of safeguarding arrangements
 - *Overview description of safeguarding arrangements*
 - *Interaction with risk management arrangements*
 - *Interaction with governance arrangements*
 - *Interaction with internal control environment*
- Safeguarding Method
 - *Description of the Method used*
 - *Rationale for the choice of Method*
 - *Investment policy*
- Description of safeguarding controls
 - *Due diligence of service providers (banks / insurance provider)*
 - *Acknowledgement Letter*
 - *Reconciliations*
 - *Access controls*
 - *Monitoring arrangements*
 - *Record keeping*

These are not prescribed and can be developed as required by specific firms. We have an outline Safeguarding Policy that is available for purchase if you do not wish to develop your Safeguarding Policy from scratch. This template could be used by firms for update to suit their specific circumstances. Please email: **enquiries@tudorstride.co.uk**

Interaction with compliance arrangements

The safeguarding arrangements form part of the firms' wider regulatory compliance arrangements and will overlap with certain other areas, including internal controls, risk

management and governance arrangements. The Safeguarding Policy will therefore need to consider approaches adopted by the firm to meet other regulatory obligations and may therefore also reference other supporting documents. As such, the Safeguarding Policy will need to be aligned with the firms' Compliance Manual and be subject to monitoring procedures implemented through the operation of the Compliance Monitoring Programme, see:

- ***Compliance Arrangements: Guide 2 - Developing a Compliance Manual***
- ***Compliance Arrangements: Guide 3 - Building a Compliance Monitoring Programme.***

Responsibility for the Safeguarding Policy

Responsibility for the development and maintenance of the Safeguarding Policy, given that it is essentially a regulatory document, would typically be allocated to the role of Compliance Manager (or similar).

Given that there will be a number of policies and procedures that relate to the financial / accounting operations of the business, i.e. operation of bank accounts, flows of funds, access controls and segregation of duties, reconciliations, management of invested funds and cashflow / liquidity management, it will be important for the Compliance Manager to seek input from designated finance, accounting and treasury staff in relation to some of the detailed procedures.