payments and crypto network

Safeguarding arrangements and controls checklist (Electronic Money Institution version)

The safeguarding requirements defined in the Electronic Money Regulations 2011 ("EMR") apply to Authorised Electronic Money Institutions ("EMI") and Registered Small EMIs ("SEMI"). The safeguarding requirements defined in the Payment Service Regulations 2017 ("PSR") apply to any EMI that provides unrelated payment services.

This controls checklist can be used to facilitate the periodic review of safeguarding arrangements, as documented in the firms' Safeguarding Policy, as part of the ongoing compliance monitoring activities.

Regulatory requirements are derived from the EMR and are summarised in the table below together with the requirements that originate from FCA guidance. References to the origin of the source text are included to assist the reader.

The checklist should be used to detail how the firm meets the safeguarding requirements expected by the FCA together with any further actions that need to be undertaken to ensure ongoing compliance or improve overall safeguarding arrangements. The further actions should be prioritised, as necessary, for remediation.

Ref.	Regulatory requirement	Regulatory Source	Checklist questions	Summary of how the requirement is met (responses to questions)	Further actions required
General safeguarding requirements					
1.	**Relevant Funds** Electronic money institutions must safeguard funds that have been received in exchange for electronic money that has been issued … referred to as "Relevant Funds"	EMR 20 (1)	• Is it clear what funds constitute "Relevant Funds" and therefore should be safeguarded? • Is it clear at what point in time Relevant Funds are received? • Where are details of the funds flows, partners and associated timings of flows documented? Are these up to date? • Is there a funds flow diagram setting out these flows? Is this up to date?		
2.	**Safeguarding Methods** Relevant funds must be safeguarded in accordance with either regulation 21 (Segregation) or regulation 22 (Insurance / Bank Guarantee).	EMR 20 (2)	• Which safeguarding method is used? • Has the Board approved the choice of safeguarding method? • Have the Board's choice of safeguarding method been recorded? • Has the firm considered using both methods in order to diversify risk?		
	An institution may safeguard certain relevant funds using the segregation method and the remaining relevant	FCA Approach			

	funds using the insurance or comparable guarantee method. If an institution chooses to use both methods of safeguarding, it should be clear from the institution's records which funds are safeguarded using each method.	Document s10.33	• If a combination of methods is used is it clear what Relevant Funds are safeguarded by each method?		
3.	**Timing of receipt of Relevant Funds** The obligation to safeguard starts immediately on receipt of relevant funds.	FCA Approach Document s10.2	• When are Relevant Funds received? • Does the timing of receipt of Relevant Funds differ between funding methods? • Are differences in timing understood, documented and reflected in the timing of the safeguarding arrangements?		
	In the FCA's view, an institution will have received funds as soon as it has an entitlement to them. This could include an entitlement to funds in a bank account in the institution's name, funds in an account in the institution's name at another institution, and funds held on trust for the institution.	FCA Approach Document s10.28	• How are funds received, e.g. into a 'collection bank account'? • Are funds segregated upon receipt? • Is the bank account into which funds are received a 'safeguarding bank account', i.e. fulfilling the initial segregation requirement and the subsequent safeguarding requirement? • Are funds received through Distributors or Agents? If yes, see row 6. • Does the funds flow diagram capture the various methods through which Relevant Funds are received and the use of Distributors and Agents (if relevant)?		
4.	**Payment instrument 5 business day allowance** Funds received in the form of payment by payment instrument need not be safeguarded until they (a) are credited to the electronic	EMR 20 (4)	• Are relevant funds received by payment using a payment instrument (e.g. a payment card)? • If yes, is it clear how long it takes for funds to be credited to the firms' bank account OR are otherwise made		

	money institution's payment account; or (b) are otherwise made available to the electronic money institution, provided that such funds must be safeguarded by the end of five business days after the date on which the electronic money has been issued.		available (e.g. payment schemes / acquirer will take several days to settle card transactions)? • When is associated e-money issued and are funds safeguarded within 5 business days of the date e-money was issued? • Does the reconciliation process ensure that funds which are not received within 5 business days of the date e-money was issued are identified so that discrepancies can be amended? • Has there been any incidences of funds not being received within 5 business days? • If yes, what action was taken? Have records been kept of the discrepancies and corrective actions?		
	This relates to e-money paid for by a payment instrument such as a credit or debit card and not e-money that is paid for by cash.	FCA Approach Document s10.18			
	Some institutions may issue e-money, and allow customers to use that e-money to make payment transactions before the customer's funds are credited to the institution's payment account, or are otherwise made available to it. However, an institution should not treat relevant funds it is required to safeguard as being available to meet its commitments to a card scheme or another third party to settle these payment transactions	FCA Approach Document s10.29			
5.	**<u>Duration of safeguarding</u>** The general principle is that the safeguarding obligation remains in place until the funds are no longer held by the institution. In practice, this means that the institution should generally continue to safeguard until funds are paid out to the payee or the payee's PSP.	FCA Approach Document s10.31	• Are funds paid out from the safeguarding bank account? • Are the payment routes denoted in the flow of funds diagram? • Does the timing of payments out correspond with the redemption of e-money (or payment to PSP/3rd party in the case of payment services)? • Are Relevant Funds safeguarded for the duration of e-money being in issue?		
6.	**<u>Funds received by Distributors and Agents</u>**	FCA Approach	• Are Relevant Funds received through Distributors and/or Agents?		

	An EMI may receive and hold funds through a distributor. The institution must safeguard the funds as soon as funds are received by the distributor and continue to safeguard until those funds are paid out to the payee, the payee's PSP or another PSP in the payment chain that is not acting on behalf of the institution.	Document s10.32	• Are Relevant Funds received through Distributors and/or Agents segregated upon receipt? • Are Relevant Funds received by Distributors and/or Agents safeguarded by the end of the business day following receipt?		
	Where relevant funds are held on an institution's behalf by agents or distributors, the institution remains responsible for ensuring that the agent or distributor segregates the funds.	FCA Approach Document s10.38			
	The [safeguarding] account must be in the name of the institution and not an agent or distributor.	FCA Approach Document s10.43	• Are Relevant Funds received by Distributors and/or Agents safeguarded in a bank account in the name of the EMI?		
7.	**<u>Unrelated payment services</u>** Authorised EMIs must also separately safeguard relevant funds received in relation to unrelated payment services.	FCA Approach Document s10.19	• Are unrelated payment services provided? If yes: • Are the Relevant Funds received from unrelated payment services clearly distinguishable from those received for e-money and related payment services? • Are Relevant Funds from unrelated payment services and their timing of receipt clearly understood? • Does the flow of funds diagram show these separate flows? • Are Relevant Funds received for unrelated payment services segregated upon receipt? • Are Relevant Funds received for unrelated payment services		
	For EMIs that are safeguarding funds received for both e-money and unrelated payment services, the funds should not be held in the same safeguarding account. This will primarily be relevant where an EMI provides payment services that are independent from its e-money products.	FCA Approach Document s10.44			

			safeguarded separately from other funds?		
8.	Where (a) only a proportion of the funds that have been received are to be used for the execution of a payment transaction (with the remainder being used for non-payment services); and (b) the precise portion attributable to the execution of the payment transaction is variable or unknown in advance, the relevant funds are such amount as may be reasonably estimated, on the basis of historical data.	EMR 20 (3)	• Are the funds received a combination of Relevant Funds for e-money / payment services AND funds for the provision of unregulated services? If yes to above: • Do the separate amounts need to be estimated using historical data? • Is the estimation method deemed satisfactory / appropriate? • Has the estimation method been documented? • Is evidence that the proportion actually safeguarded was a reasonable estimate available for submission to the FCA if requested?		
9.	Institutions combining payment and non-payment services will need to be clear in their prior information to customers about whether, when and in what way, funds will be protected and about precisely which services benefit from this protection, to avoid breaching the Consumer Protection from Unfair Trading Regulations 2008 and/or Principle 7 (communications with clients).	FCA Approach Document s10.25	• Do customer Terms of Use clearly set out the safeguarding arrangements operated in relation to e-money and payment services? • Do customer Terms of Use clearly specify that safeguarding does not apply to funds received for unregulated services?		
Systems and controls					
10.	**<u>Responsibility</u>** The FCA expect institutions to ensure that an appropriate individual within the institution has oversight of, and responsibility for ensuring compliance with, all procedures relating to safeguarding and responsibility for ensuring that every	FCA Approach Document s10.78	• Has responsibility for ensuring compliance with safeguarding requirements been allocated to an appropriate individual? • Does their Job Description clearly specify their responsibilities re safeguarding?		

	aspect of the safeguarding procedure is compliant.		• Is the role and/or responsibility denoted in the staff organisation chart (inc. reporting lines to business functions that support safeguarding arrangements / operations)? • Has the individual received training on safeguarding arrangements? Is the training considered to be up to date? • Is the role considered to be an EMD Individual roles and should the individual therefore be notified to, and approved by, the FCA as 'fit and proper'?		
11.	**<u>Due diligence of safeguarding partners</u>** The FCA expect institutions to exercise all due skill, care and diligence in selecting, appointing and periodically reviewing credit institutions, custodians and insurers involved in the institution's safeguarding arrangements. Institutions should carry out the periodic reviews of their third party providers as often as appropriate. This means they should be carried out at least annually, and whenever an institution might reasonably conclude that anything affecting their appointment decision has materially changed.	FCA Approach Document 10.78	• Is there a documented due diligence procedure that is applied during the selection of credit institutions that provide access to safeguarding bank accounts (as required under both safeguarding methods 1 and 2)? • If applicable, is there a documented due diligence procedure that is applied during the selection of partners used to provide the insurance policy or bank guarantee (as required under safeguarding method 2)? • Has the initial due diligence procedure been applied to current safeguarding partners and have appropriate records been retained? • Was the information provided to the Board for their review and have the Board approved the choice of bank / partner? • Has an (at least) annual review of due diligence applied to safeguarding partners been performed? • Does the firm's Compliance Monitoring Programme include a		

			check on the performance / update of ongoing due diligence?
			• Does the due diligence process consider:
			  • The expertise and market reputation of the third party and any legal requirements or market practices related to the holding of relevant funds or assets that could adversely affect e-money holders' or payment service users' rights or the protections?
			  • the need for diversification of risks?
			  • the capital and credit rating of the third party?
			  • the amount of relevant funds or assets placed, guaranteed or insured as a proportion of a third party's capital?
			  • the level of risk in the investment and loan activities undertaken by the third party and its affiliates?
			• Have there been any decisions by an authorised credit institution or authorised custodian to close a safeguarding account that require notification to the FCA?		

12.	**<u>Safeguarding Audit</u>** The FCA expect EMIs to arrange specific annual audits of its compliance with the safeguarding requirements under the EMR and PSR if it is required to arrange an audit of its annual accounts under the Companies Act 2006. *Note: EMIs are required to have their financial statements audited.*	FCA Approach Document s10.71	• Is the audit carried out by an audit firm or by another independent external firm or consultant? • Has the firms exercised due skill, care and diligence in selecting and appointing auditors? • Has the firm satisfied itself, given the nature and scale of the business, that its proposed auditor has, or has access to, appropriate specialist skill in auditing compliance with the		

			safeguarding requirements under the EMR and PSR? • Has the Board approved the choice of safeguarding auditor? • Has the audit period been aligned with the accounting year end to simplify audit work and reporting? • Have the Board considered previous audit findings? • Have findings from previous audits been addressed? • Were any previous issues reported to the FCA by the auditor? If yes, have these been fully remediated? • Have records of all previously issued safeguarding audit reports been retained for record keeping purposes? • Have alternative safeguarding auditors been considered / approached? If no, consider why not and whether rotation of auditor is advisable in order to gain experience / perspective.		
	The FCA also expect institutions to consider whether they should arrange an additional audit in line with their conditions of authorisation if there are any changes to their business model which materially affect their safeguarding arrangements, e.g. starting to provide unrelated payment services or changing the method of safeguarding. The FCA expects the safeguarding audit opinion to be provided a reasonable period in advance in line notification obligations.	FCA Approach Document s10.75	• Since the last audit date, have there been any changes to the business model or safeguarding arrangements that would suggest an additional safeguarding audit should be undertaken prior to the next scheduled annual audit? • Are there any intended changes that would require notification to the FCA beforehand and which will need to be accompanied with an audit report. • If yes, is there sufficient time to make a notification of a change in circumstances at least 28 days before the change occurs.		

13.	**Record keeping** The FCA expect institutions to maintain clear and accurate records that are sufficient to show and explain their compliance with all aspects of their safeguarding obligations, and ensure that this information is provided to the FCA in a timely manner as required either through reporting or upon request.	FCA Approach Document s10.75	• Are safeguarding records comprehensively covered in the firm's record keeping schedule? *Note: all areas covered in this schedule will involve records being retained.* • Are records retained in a manner that enables quick retrieval?		
	Records should include a documented rationale for every decision they make regarding the safeguarding process and the systems and controls that they have in place. Such decisions should be reviewed regularly.	FCA Approach Document s10.78	• Do records cover all aspects of the current safeguarding arrangements? • Do records cover all changes in safeguarding arrangements that have taken place during the year? • Is there a documented Safeguarding Policy describing the firm's safeguarding arrangements (i.e. policies and procedures in each separate area)? • Have there been any failures to keep up to date records of relevant funds and safeguarding accounts that require notification to the FCA?		
14.	**Records of segregated funds** In order to ensure it is clear what funds have been segregated and in what way, institutions must keep records of any: • relevant funds segregated • relevant funds placed in an account with an authorized credit institution; and • assets placed in a custody account.	FCA Approach Document s10.78	• What records of segregated Relevant Funds are retained? Are these sufficient? • What records are retained in relation to Relevant Funds placed in safeguarding bank accounts and/or invested in low risk assets? Are these sufficient? • What systems are used to retain records, e.g. accounting systems? Are there any changes planned to these systems that may affect the safeguarding records?		

	An institution's records should enable it, at any time and without delay, including after the occurrence of an insolvency event, to distinguish relevant funds and assets held: – for one e-money holder/payment service user from those held for any other e-money holder/payment service user; and – for one e-money holder/payment service user from its own money. The records should be sufficient to show and explain the institution's transactions concerning relevant funds and assets.	FCA Approach Document s10.78	• Are the records of user entitlements sufficient to distinguish balances held for different users? • Do the records distinguish between funds held for customers (Relevant Funds) and funds held for the business? • Does the Wind Down Plan appropriately reference the sources of information that would enable user balances to be clarified and how to access such records?		
15.	**<u>Reconciliations</u>** An institution should carry out internal reconciliations of records and accounts of the entitlement of e-money holders/payment service users to relevant funds and assets with the records and accounts of amounts safeguarded. This should be done as often as necessary, and as soon as reasonably practicable after the date to which the reconciliation relates.	FCA Approach Document s10.79	• Is the reconciliation methodology / process documented? • Does the Safeguarding Policy either reference where the reconciliation process can be accessed or otherwise document the process? • Does the reconciliation methodology reconcile internal records (user balances from the firm's payment system and cashbook balances from the firm's accounting system) to external balances (bank balances)? • Has the Board approved the reconciliation methodology? Has a record of the approval been retained (e.g. minutes)? • Are records maintained that are sufficient to show and explain the adequacy of the reconciliation process? • Is the reconciliation methodology sufficiently detailed / clear to be		
	Institutions should maintain records that are sufficient to show clearly to a third party, the method of internal reconciliation and its adequacy.	FCA Approach Document s10.79			
	The reconciliation process must be supported by a clear explanation and must be signed off by the institution's board of directors. The explanation should also make clear that all funds or assets are held	FCA Approach Document s10.84			

	for the benefit of payment service users/e-money holders within the meaning of the PSR/EMR.		understood and operated by a third-party, e.g. insolvency practitioner?		
	Where there is potential for discrepancies (e.g. due to investments or multiple currencies), reconciliations should be carried out as often as is practicable not less than once during each business day.	FCA Approach Document s10.79	• Is there a risk of discrepancies, e.g. due to investment of funds, multiple currencies, multiple funds flows, fees / charges received into the safeguarding bank account? • Given the risk of discrepancies, would daily reconciliations be appropriate? • Are daily reconciliations performed? • Are copies of reconciliations retained in accordance with record keeping policy? • Has there been a failure to carry out reconciliations as frequently as appropriate that should be notified to the FCA?		
16.	Where relevant funds are held in a currency other than the currency of the payment transaction, the reconciliation should be carried out using an appropriate exchange rate such as the previous day's closing spot exchange rate.	FCA Approach Document s10.85	• Are exchange rates used in the reconciliation process? • How are exchange rates obtained? Are the rates considered appropriate / reliable?		
	Where discrepancies arise as a result of reconciliations, institutions should identify the reason for those discrepancies and correct them as soon as possible by paying in any shortfall or withdrawing any excess, unless the discrepancy arises only due to timing differences between internal and external accounting systems. In no circumstances would it be acceptable for corrections to be made after the end of the business day.	FCA Approach Document s10.87	• What discrepancies have been identified? • What root causes have been identified? • Have root causes, other than timing, been remedied? • Have reconciliation discrepancies been corrected? • Have corrections been made prior to the end of the business day on which the reconciliation was performed?		

			• Have records of differences corrected been retained in accordance with record keeping policy? • Can the firm demonstrate that it is carrying out appropriate reconciliations and correcting discrepancies? • Has there been any inability to resolve reconciliation discrepancies that should be notified to the FCA?		
Method 1 – Segregation of customer funds					
17.	**<u>Initial segregation requirement</u>** An electronic money institution must keep relevant funds segregated from any other funds that it holds.	EMR 21 (1)	• Is the segregation method used? • Has the Board approved the use of the segregation method? • Are the Relevant Funds received into a segregated account that is separate from the bank account used for safeguarding purposes? • Is the same bank account used to meet initial segregation and subsequent safeguarding requirements?		
	Institutions must segregate (i.e. keep relevant funds separate from other funds that they hold) as soon as those funds are received.	FCA Approach Document 10.36			
	The EMRs do not prohibit the same account being used to segregate funds up to the end of the business day following receipt, and to continue to safeguard the funds from that point onwards, as long as the account meets the additional requirements of the safeguarding account.	FCA Approach Document 10.51			
18.	**<u>Safeguarding through segregation</u>** Where the institution continues to hold the relevant funds at the end of the business day following the day on which they were received it must—	EMR 21 (2)(a)	• Is the segregated bank account into which Relevant Funds are received also used as the safeguarding bank account? • If no, are the Relevant Funds moved from the initial segregated bank		

	(a) place them in a separate account that it holds with an authorised credit institution; or		account to the safeguarding bank account by the end of the following business day? • Where separate segregated 'collection' and safeguarding bank accounts are used, does the rationale for doing so remain relevant?		
	Deposit the funds in a separate account with an authorised credit institution or the Bank of England	FCA Approach Document 10.35			
19.	**Safeguarding through segregation (investment)** (b) invest the relevant funds in secure, liquid, low-risk assets ("relevant assets") and place those assets in a separate account with an authorised custodian.	EMR 21 (2)(b)	• Are Relevant Funds invested? If yes, • Do the investments meet the requirement for being *"secure, liquid, low-risk assets"* as approved by the FCA? • Are the assets held in a separate account with an authorised custodian? • Is this segregated investment account designated as a safeguarding bank account?		
	Authorised custodians are firms authorised by us to safeguard and administer investments	FCA Approach Document 10.42			
20.	**Comingling** An account in which relevant funds or relevant assets are placed must be used only for holding those funds or assets.	EMR 21 (3)(b)	• Are the accounts that are used to hold relevant funds or relevant assets only used to hold Relevant Funds? Ensure no co-mingling with the firm's own funds.		
21.	**Account designation** An account in which relevant funds or relevant assets are placed must be designated in such a way as to show that it is an account which is held for the purpose of safeguarding relevant funds or relevant assets in accordance with this regulation.	EMR 21 (3)(a)	• What account designation is used in the safeguarding bank account and the accounts used to hold investment assets? • Is the designation considered appropriate given FCA guidance on terms that can be used i.e. including the word "safeguarding", "customer" or "client"?		
	The safeguarding account in which the relevant funds or equivalent assets are held must be named in a	FCA Approach			

	way that shows it is a safeguarding account (rather than an account used to hold money belonging to the institution) i.e. including the word "safeguarding", "customer" or "client".	Document 10.43			
22.	**Rights over safeguarded funds** No person other than the electronic money institution may have any interest in or right over the relevant funds or the relevant assets placed in an account in accordance with paragraph (2)(a) or (b) except as provided by this regulation.	EMR 21 (4)	• How can the firm ensure that no other person has any interest in or right over the relevant funds or the relevant assets placed in safeguarding accounts?		
23.	**Acknowledgement Letter** The institution should either have an acknowledgement letter from the authorized credit institution or authorised custodian stating that they have no interest in (e.g. a charge), recourse against, or right (e.g. a right of set off) over the relevant funds or assets in the safeguarding account or otherwise be able to demonstrate that the authorised credit institution or authorised custodian has no such rights, recourse or interest.	FCA Approach Document 10.46	• For each safeguarding bank account and, if relevant, investment account, has the firm received an acknowledgement letter from the relevant banking partner(s)? • Do the acknowledgement letter(s) follow the FCA's example format? • Are acknowledgement letters kept on file and up to date? • Can acknowledgement letters be retrieved if required by the FCA or the safeguarding auditor? • If the banking partner(s) are unable to issue an acknowledgement letter, how can the firm demonstrate that the authorised credit institution / authorised custodian has no rights, recourse or interest over the safeguarded funds / assets?		
24.	The EMRs and PSRs 2017 do not prevent institutions from holding more than one safeguarding account	FCA Approach Document 10.50	• How many safeguarding bank accounts are maintained? • Does the firm use only the one banking partner to afford access to safeguarding bank accounts?		

			• Considering the advantages of diversification, have discussions with alternative banking partners taken place?		
25.	The institution must keep a record of— (a) any relevant funds segregated in accordance with paragraph (1); (b) any relevant funds placed in an account in accordance with paragraph (2)(a); and (c) any relevant assets placed in an account in accordance with paragraph (2)(b).	EMR 21 (5)	• Are the records detailing funds segregated and safeguarded (or invested in relevant assets) clear and comprehensive? • Are the records retained in accordance with record keeping policy and retrievable if necessary?		
26.	For the purposes of this regulation— (a) assets are both "secure" and "low risk" if they are— (i) asset items falling into one of the categories set out in Table 1 of point 14 of Annex 1 to Directive 2006/49/EC(a) for which the specific risk capital charge is no higher than 1.6% but excluding other qualifying items as defined in point 15 of that Annex; or (ii) units in an undertaking for collective investment in transferable securities which invests solely in the assets mentioned in paragraph (i); and (b) assets are "liquid" if they are approved as such by the Authority.	EMR 21 (6)	• Do any investments of safeguarded funds into "Relevant Assets" meet FCA requirements for being secure, liquid and low-risk?		
27.	**<u>Removal of fees</u>** There may be instances where, for customer convenience, the institution receives funds from	FCA Approach Document 10.37	• Do the funds received from customers include fees? • Is the amount of fees clear?		

	customers that include both relevant funds and fees owed to the institution. The FCA expect institutions to segregate the relevant funds by moving them into a segregated account as frequently as practicable throughout the day. In no circumstances should such funds be kept commingled overnight.		• Are fees deducted from the balance of safeguarded funds each day (before the end of the business day)? • Should the frequency of fee removal be increased? • Are fees removed prior to the Relevant Funds being transferred to any separate safeguarding bank account?		
Method 2 – Insurance or Bank Guarantee					
28.	An electronic money institution must ensure that any relevant funds are covered by: (i) an insurance policy with an authorised insurer; (ii) a guarantee from an authorised insurer; or (iii) a guarantee from an authorised credit institution.	EMR 22 (1)(a)	• Is the insurance/guarantee method used? • Has the Board approved the use of the insurance/guarantee method?		
29.	The policy or comparable guarantee will need to cover either all relevant funds (not just funds held by an institution at the end of the business day following the day that they were received) or certain relevant funds (with the remaining relevant funds protected by the segregation method.	FCA Approach Document 10.56	• Is the level of insurance / guarantee sufficient to cover expected volumes?		
30.	The proceeds of any such insurance policy or guarantee are payable upon an insolvency event into a separate account held by the electronic money institution which must: (i) be designated in such a way as to show that it is an account which is held for the purpose of safeguarding relevant funds in	EMR 22 (1)(b)	• Does the firm maintain a safeguarding bank account into which the proceeds from the insurance policy / bank guarantee will be paid? • Is the provider of the insurance / guarantee aware of the bank account into which proceeds must be paid? • Do the terms of the insurance / guarantee support payment of		

	accordance with this regulation; and (ii) be used only for holding such proceeds.		proceeds to the safeguarding bank account?		
	As funds must be received into a designated safeguarding account, in practice, this will mean that an institution will need to maintain a designated safeguarding account with a credit institution for the full term of the insurance policy or comparable guarantee.	FCA Approach Document 10.60			
31.	No person other than the electronic money institution may have any interest or right over the proceeds placed in an account in accordance with paragraph (1)(b) except as provided by this regulation.	EMR 22 (2)	• Does the safeguarding bank account into which the proceeds of the insurance / guarantee will be paid meet the regulatory requirements for a safeguarding bank account (see previous section)?		
32.	It is important that the insurance policy or comparable guarantee meets the requirements of the EMR. The guarantor must assume a primary liability to pay a sum equal to the amount of relevant funds upon the occurrence of an insolvency event.	FCA Approach Document 10.57	• Has the agreement with the provider of the insurance / guarantee been reviewed by an appropriate person? • Is the agreement retained in accordance with record keeping policy and retrievable without delay? • Does the guarantor assume a primary liability to pay a sum equal to the amount of relevant funds upon the occurrence of an insolvency event of the firm? • Does the agreement include any terms, conditions or restrictions on the prompt paying out of the funds from the insurance policy / guarantee? • Are any requirements for the certification of the occurrence of an insolvency event clearly specified in		
	There must be no other condition or restriction on the prompt paying out of the funds, accepting that some form of certification as to the occurrence of an insolvency event is a practical necessity	FCA Approach Document 10.58			
	The insurance policy or comparable guarantee must pay out the full amount of any claim (i.e. the difference between the claims of payment service users or e-money	FCA Approach Document 10.58			

	holders and the amount of funds properly safeguarded under the segregation method) regardless of how the insolvency event occurs. This includes whether the insolvency event is caused by any fraud or negligence on the part of the institution or any of its directors, employees or agents.		the agreement so as not to cause delay? • Are there any restrictions on the amount of funds that would be paid out upon insolvency of the firm?		
33.	The proceeds of the insurance policy or comparable guarantee must be payable into a separate safeguarding account held by the institution. If the institution is using the insurance or comparable guarantee method to safeguard all relevant funds, the account must be used only for holding such proceeds. If an institution has decided to use a combination of the two safeguarding methods, the account may also be used for holding funds segregated in accordance with the segregation method.	FCA Approach Document 10.59	• Does the firm operate a combination of safeguarding methods, i.e. method 1 (segregation) and method 2 (insurance / guarantee)? • If yes, is the same safeguarding bank account to be used for receipt of proceeds from the insurance policy / guarantee?		
34.	The arrangements must ensure that the proceeds of the insurance policy or comparable guarantee fall outside of the institution's insolvent estate, so as to be protected from creditors other than payment service users or e-money holders. The FCA suggest that one way of achieving this is for the insurance policy or comparable guarantee to be written in trust for the benefit of the payment service users or e-money holders.	FCA Approach Document 10.61	• Is the insurance policy / guarantee written in trust per FCA suggestion? • Otherwise, how does the firm ensure that the proceeds of the insurance policy or comparable guarantee fall outside of the firm's insolvent estate?		

35.	To ensure that an institution's relevant funds remain adequately safeguarded: • the amount of the insurance cover or comparable guarantee must at all times include reasonable headroom to allow for any foreseeable variation in the amount of the safeguarded funds being protected by the insurance policy or comparable guarantee • there should be no level below which the insurance policy or comparable guarantee does not pay out • the insurance policy or comparable guarantee should provide cover for at least as long as the institution is using insurance or a comparable guarantee to protect the safeguarded funds • the institution must ensure that their insurer or guarantor understands that the circumstances that led to a claim would provide no grounds to dispute their liability to pay it	FCA Approach Document 10.63	• Is there a documented process to ensure that the amount of any insurance cover or comparable guarantee at all times includes reasonable headroom to allow for any foreseeable variation in the amount of the safeguarded funds being protected by the insurance policy or comparable guarantee? • Does the agreement include any terms or minimum payout levels restricting proceeds being paid out? • Are there any limits to the duration of payouts being made under the policy? • Does the insurer or guarantor understand that the circumstances that led to a claim would not provide grounds to dispute their liability to pay?		
36.	Potential risks to consider include: • insurance cover or comparable guarantee not being extended or renewed, and in particular, the risk that the institution cannot find an alternative insurer or guarantor, and does not have sufficient liquid assets to safeguard using the segregation method	FCA Approach Document 10.64	• How has the firm assessed and mitigated any increased operational risk arising from the reliance on insurance, comparable guarantee? • Is there information in file that demonstrates the use of insurance / bank guarantee might undermine the firm's organisational arrangements or its ability to minimise the risk of loss or diminution of customer funds?		

	• inadequate control mechanisms to manage the risk of any restrictions on access to funds held outside a safeguarding account adversely impacting the institution's short-term liquidity, contrary to Regulation 6(5) of the EMRs and 6(6) of the PSRs 2017.		• Have discussions with the providers of the insurance / guarantee indicated that they might not renew / extend the policy? • Has the firm initiated / maintained any communications with alternative insurers or guarantors in order to reduce risk?		
37.	An institution should seek to extend its insurance policy or comparable guarantee in good time before it expires. If an institution is unable to extend its cover, and the policy or guarantee term has less than 3 months remaining, the institution should prepare to safeguard all its relevant funds using the segregation method.	FCA Approach Document 10.65	• Is the renewal date recorded so that renewal discussions can be initiated in good time? • Is it clear what role will lead the renewal discussions? • Have alternative providers been considered?		
38.	If EMIs use this method for relevant funds received in exchange for e-money and relevant funds received for unrelated payment services, they must ensure that the insurance policy(ies) or comparable guarantee(s) cover both sets of funds and provide for them to be paid into separate accounts.	FCA Approach Document 10.66	• Does the firm intend for the policy to cover both e-money and unrelated payment services? • If yes, are separate policies maintained or does the single policy distinguish between the required payment for e-money and unrelated payment services? • Is the requirement to pay out proceeds in relation to the e-money services and unrelated payment services into separate safeguarding bank accounts contemplated in the policy / agreement and clearly understood by the insurer / guarantor?		