

13 May 2026

Circular to Payment Institutions and Electronic Money Institutions about the Safeguarding of Clients' Funds through the Investment in Secure Liquid Low-Risk Assets

The Malta Financial Services Authority (the "MFSA") is issuing this circular to provide guidance to payment and electronic money institutions (the "Institutions") which opt to safeguard clients' funds by investing clients' funds in secure liquid low-risk assets as established in article 7(1A)(a)(i) or (ii), of the Financial Institutions Act (Safeguarding of Funds) Regulations (S.L. 376.04) (the "Safeguarding of Funds Regulations").

Safeguarding clients' funds through the investment of clients' funds in secure liquid low-risk assets as established under Regulation 7(1A)(a)(i) of the Safeguarding of Funds Regulations

Where Institutions opt to invest clients' funds directly in assets as established in Regulation 7(1A)(a)(i) of the Safeguarding of Funds Regulations, such assets shall only be considered by the MFSA to be 'secure low risk', if these are assets falling into one of the categories set out in Table 1 of article 336(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms ("the CRR"), for which the specific risk capital charge is not higher than 1.6%, excluding other qualifying items as defined in article 336(4) of the CRR.

Moreover, in order for assets to be deemed 'liquid' in lieu of article 7(1A)(b) of the Safeguarding of Funds Regulations, these should fall under Level 1 or Level 2 of the Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 supplementing Regulation (EU) No 575/2013.

Safeguarding clients' funds through the investment of clients' funds in secure liquid low-risk assets as established under Regulation 7(1A)(a)(ii) of the Safeguarding of Funds Regulations

Where Institutions opt to invest clients' funds in units of an undertaking for collective investment in transferable securities (UCITS) as established in article 7(1A)(a)(ii) of the Safeguarding of Funds Regulations, specifically in a UCITS which qualifies as Money Market

Fund ('MMF') pursuant to Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds, the MFSA wishes to provide the following guidance:

Secure Low Risk

The MFSA considers that the criteria of 'secure low risk' would be satisfied in terms of article 7(1A)(a)(ii) of the Safeguarding of Funds Regulation where a UCITS MMF invests in one or more financial assets as specified in article 9(1) of Regulation (EU) 2017/1131 and where the following conditions are satisfied:

- a) The stated investment objective of the UCITS MMF shall be that of investing in **high credit quality money market instruments** (for example, fixed or floating rate instruments including commercial paper, certificates of deposit, freely transferable promissory notes, government and corporate bonds and asset-backed commercial papers); and
- b) The composition of the portfolio holdings of the UCITS MMF shall **principally consist** of high credit quality money market instruments. Institutions shall carry out and submit a thorough assessment to determine that the money market instruments of the UCITS MMF qualify as debt securities and fall into one of the categories set out in Table 1 of Article 336(1) of the CRR for which the specific risk capital charge is no higher than 1.6% but excluding other qualifying items as defined in Article 336(4) of the CRR.

Liquidity

As established in article 7(1A)(b) of the Safeguarding of Funds Regulations, secure low risk assets shall be deemed to be '**liquid**' if they fall within the criteria set out in a Financial Institutions Rule. In this regard, R3-2.9.7 of Chapter 3 of the Financial Institutions Rulebook establishes that a secure, low-risk asset shall be deemed to be liquid if it falls within one of the categories listed hereunder:

- a) Listed debt securities issued by EU governments or central banks; **or**
- b) Other assets equivalent to the quality and liquidity of the above assets as may be approved by the Authority upon request in writing by the Licence Holder.

In this context, while taking into account that point (b) of this title gives the MFSA discretion to consider other assets to be deemed liquid, the MFSA hereby considers the criteria of '**liquid**' to be met in terms of article 7(1A)(b) of the Safeguarding of Funds Regulations, where the UCITS MMF's investment objective is that of investing in high credit quality money market instruments as explained previously above and where the UCITS MMF provides that redemption proceeds would be received by no later than the end of the business day following submission of the redemption request.

Other Considerations

In relation to the '**secure low risk**' and '**liquid**' criteria, institutions are required to fulfil the following conditions on an ongoing basis:

- 1) Institutions shall test the liquidity of the UCITS MMF through redemptions;
- 2) Institutions shall adopt a prudent allocation with respect to the investment of clients' funds in UCITS MMFs and shall justify its intended allocation on the basis of historical data;
- 3) institutions shall have robust internal governance arrangements in place, which include a responsible person or function that shall oversee the investment in the UCITS MMF and that it carries out daily monitoring of the UCITS MMF (including daily monitoring of the funds' assets and daily monitoring of the funds' main indicators);
- 4) Institutions shall carry out an assessment semi-annually to test whether the money market instruments of the portfolio holdings of the UCITS MMF at the time of the test qualify as debt securities and fall into one of the categories set out in Table 1 of article 336(1) of the CRR for which the specific risk capital charge is no higher than 1.6% but excluding other qualifying items as defined in article 336(4) of the CRR. The assessments carried out shall be documented, dated, and signed-off, for record and audit trail purposes. Moreover, the MFSA may at any time and at its discretion request Institutions to submit the assessments carried out.
- 5) As part of the annual audit required to be undertaken on the safeguarding arrangements in terms of R.3-2.9.25 of Chapter 3 of the Financial Institutions Rulebook, the audit shall include an assessment about whether the institution has complied with each of the above-mentioned conditions.

Submissions to the MFSA

When Institutions wish to invest clients' funds in units of a UCITS MMF, they are required to submit to the MFSA:

- a. any applicable offering documents relating to the specific fund / sub-fund in which the institution intends to invest in (which documentation should include the investment objectives as well as the redemption mechanisms for the specific fund / sub-fund);
- b. the maximum amount in percentage terms of the safeguarded funds which shall be safeguarded in this manner and the basis on which such percentage was determined;
- c. an updated safeguarding policy reflecting the use of such method of safeguarding;
- d. a board resolution approving the revised safeguarding policy and the utilisation of such method of safeguarding (subject to regulatory approval);
- e. the institution's own assessment of the individual assets in which the UCITS MMF has invested in and classified in accordance with the categories set out in Table 1 of Article 336(1) of the CRR. In this respect, the assessment must explain the exposure classes to which the assets are assigned, the risk weights that the assets are assigned, the credit quality determined by reference to the credit assessments of ECAs (where applicable) and the specific risk capital charge that applies.

- f. information and documentation evidencing that the account that shall be set-up with a custodian or depository where the assets will be held would be compliant with the following:
 - (i) the assets held in the account are insulated and held solely for and on behalf of and in the interest of clients of the institution;
 - (ii) clients of the institution enjoy a right of ownership over the assets held in the account;
 - (iii) no other person, including the institution and the custodian or depository, has any claim or right of action on or against the assets held in the account.
- g. An explanation of the internal due diligence assessment carried out by the institution to check about the appropriateness of the custodian or depository which shall be selected for holding the assets and that the matters listed in R3-2.9.19 of Chapter 3 of the Financial Institutions Rulebook have been duly considered.

The above list is a non-exhaustive list of documents which may be required and is without prejudice to any additional documents which the MFSA may require on a case-by-case basis.

The above-mentioned guidance with respect to the investment of clients' funds in a UCITS MMF shall supersede the expectations explained in the 'Dear CEO' letter dated 21 January 2025 in relation to the assessment required to be undertaken to determine whether the underlying assets of a UCITS meet both criteria of being '*secure low risk*' and '*liquid*'.

The guidance provided in this circular may be amended where further guidance or regulatory developments are issued at EU level, including in connection with the forthcoming PSD3.

Any queries related to the above should be addressed to fintechpolicy@mfsa.mt