

In case of discrepancies between the French and the English text, the French text shall prevail.

Luxembourg, 18 October 2016

To all credit institutions and investment firms incorporated under Luxembourg law, to the branches of non-EU credit institutions and investment firms, as well as to UCITS management companies and to alternative investment fund managers whose authorisation includes the management of portfolios on a discretionary, client-by-client basis

**CIRCULAR CSSF-CPDI 16/03**

**Re : Survey on covered claims in connection with investment business**

Ladies and Gentlemen,

1. Pursuant to Article 197(10) of the amended law of 18 December 2015 on the failure of credit institutions and certain investment firms (hereinafter “law of 2015”), the CPDI requests data as defined below from the members of the “Système d’indemnisation des investisseurs Luxembourg” (“SIIL”) for the purpose of calculating the share of the contribution that each member would have to make in accordance with Article 198, should a compensation by the SIIL happen. For the purpose of this circular, UCITS management companies and alternative investment fund managers are assimilated to investment firms to the extent that they manage portfolios on a discretionary, client-by-client basis.

2. The data survey aims at collecting the volume of covered claims (instruments and money) in relation to investment business of which members are debtors, in accordance with Article 198(1) of the law of 2015. Members incorporated under Luxembourg law shall include in their data the covered claims (instruments and money) arising from their branches in other Member States. The CPDI reminds you that pursuant to paragraph 3 of Circular CSSF-CPDI 16/02, the data survey includes money that members of the SIIL deposit at credit institutions on behalf of their clients.

3. The CPDI draws your attention to the provisions of Article 196(5) of the law of 2015: Where the investor is not absolutely entitled to the money or instruments held, the

person who is absolutely entitled shall be covered by the compensation scheme, provided that the person has been identified or is identifiable before the date on which the intervention of the SIIL is triggered. These provisions shall apply in particular when the investor is a credit institution or an investment firm, but they do not apply to collective investment undertakings. The CPDI also refers to Circular CSSF-CPDI 16/02 which clarifies the scope of the guarantee.

4. Where a member of the SIIL deposits its customers' money or financial instruments at a third party (a credit institution or a person authorised to provide ancillary service 1 of Section C, Annex II of the amended law of 5 April 1993 on the financial sector), it shall declare to this third party that it acts on behalf of its customers, the number of persons who are absolutely entitled as well as the amount due to each of them. This declaration does not exempt the member of the SIIL from reporting the amounts of money and instruments in question to the CPDI for the purpose of the SIIL. The third party responsible for the instruments' safekeeping, if itself a member of the SIIL, shall also report the amount of instruments to the CPDI. A double declaration of financial instruments will thus take place for the purpose of covering the possible scenarios, namely on the one hand, the failure of the member of the SIIL, and on the other hand, the failure of the third party. Credit institutions do not declare any deposits (in the sense of liabilities in their balance sheet) to the CPDI for the purpose of the SIIL as part of the present data survey.

5. In order to give the members of the SIIL the possibility to simplify the reporting of their covered claims, they may report amounts that are higher than required by the law of 2015. If they do so, they shall participate in the payment of the guarantee according to the amounts that they have reported.

6. The amounts of covered claims shall be reported based on the figures as at 31 December 2015. To this end, members are kindly requested to complete one of the sheets (simplified or detailed) of the document available on the CSSF's website at:

<http://www.cssf.lu/fileadmin/files/ESPREP-Xxxxx-yyyy-mm-ICS.xls>

An English translation of the tables is attached to this circular for information purposes. The filename of the completed document shall comply with the file naming convention for special enquiries, as defined in Circular CSSF 08/344.

- The letter "X" shall be replaced by "B" for credit institutions, "P" for investment firms, "S" for UCITS management companies, and "A" for alternative investment fund managers.

- The string "xxxx" corresponds to the identification number of the institution with the CSSF

- The string "yyyy" and "mm" shall be replaced by 2015 and 12, respectively.

The completed document shall be transmitted via one of the secured channels (E-File or SOFiE) no later than on 15 November 2016. The relevant document must be in ".xls" or ".xlsx" format. Any other format (for example ".doc", ".pdf", etc.) will not be accepted. The document shall be completed in any cases. If you consider that there is no amount to be reported, the transmission to the CSSF remains nevertheless mandatory and value

"0" (= zero) must be indicated in the corresponding tables. Documents which include error messages will be considered as void.

For any questions regarding this circular, please contact Mr. Laurent Goergen ([laurent.goergen@cssf.lu](mailto:laurent.goergen@cssf.lu)).

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER  
Conseil de protection des déposants et des investisseurs

On behalf of the CPDI,  
Claude SIMON  
Chair of the CPDI

Appendix: Tables for the survey

## Investor compensation

### 1. Simplified calculation

	Amount of eligible money <sup>(1)(3)</sup>	Amount of eligible instruments <sup>(2)(3)</sup>	Amount of eligible money and instruments	Number of eligible claims <sup>(3)</sup>	Covered claims (20000 EUR x number of claims)
Total (in million EUR)	0.00	0.00	0.00	0	0.00

All amounts shall be reported in millions of euros with two decimals.

(1) Please report money owed to or belonging to investors that is kept on their behalf in relation to investment business. Credit institutions do not report deposits (i.e. liabilities in their balance sheet) in the sense of Article 163, point 6. of the law of 18 December 2015 on the failure of credit institutions and certain investment firms (hereafter "Law of 2015").

(2) Please report instruments belonging to investors that are kept or administered on their behalf in relation with investment business. This item includes:

- instruments for which the member of the SIIIL ensures the safekeeping and administration (ancillary service 1 of Section C, Annex II or activity 12 of Annex I of the amended law of 5 April 1993 on the financial sector);
- instruments that the member of the SIIIL has deposited in his name on behalf of his clients at a third party.

(3) Amount and number of claims after applying the exclusions of Article 195(2) of the Law of 2015. The number of claims corresponds to the number of investors or persons that are absolutely entitled, cf. Article 196(5). Persons acting as members of a business partnership, association or grouping of a similar nature which has no legal personality shall be treated as a single investor.

## Investor compensation

### 2. Detailed calculation

Order of magnitude of investor's claim (money and instruments)	Amount of eligible money <sup>(1)(3)</sup> (in million EUR)	Amount of eligible instruments <sup>(2)(3)</sup> (in million EUR)	Amount of eligible money and instruments	Number of eligible claims <sup>(3)</sup>	Amount of covered money and instruments
≤20.000 EUR	0.00	0.00	0.00	0	0.00
> 20.000 EUR	0.00	0.00	0.00	0	0.00
TOTAL	0.00	0.00	0.00	0	0.00

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