



Conseil de Protection des  
Déposants et des Investisseurs

## Circular CSSF-CPDI 25/44

Update of Circular CSSF-CPDI 16/03  
regarding the Survey on covered claims in  
connection with investment business –  
mode of transmission

## **Circular CSSF-CPDI 25/44**

Update of Circular CSSF-CPDI 16/03 regarding the Survey on covered claims in connection with investment business – mode of transmission

**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**

Luxembourg, 15 January 2025

Ladies and Gentlemen,

1. The objective of this circular is to amend Circular CSSF-CPDI 16/03 regarding the Survey on covered claims in connection with investment business by specifying the new modes of transmission of the reporting.
2. The amendments also clarify certain terms relating to the identification and indemnification of accounts where the holder is different from the person absolutely entitled for the purpose of the "Système d'indemnisation des investisseurs Luxembourg" ("SIIL") guarantee by taking into account the modifications brought by Circular CSSF-CPDI 23/35 to Circular CSSF-CPDI 16/02 on the scope of the deposit guarantee and the investor compensation.
3. Circular CSSF-CPDI 16/03 is amended in accordance with the annex to this circular. The annex includes the changes introduced by this circular to Circular CSSF-CPDI 16/03 in tracked changes in order to facilitate the reading and comprehension.
4. Circular CSSF-CPDI 17/07 is repealed.

Yours sincerely,

**Commission de Surveillance du Secteur Financier**  
Conseil de protection des déposants et des investisseurs

On behalf of the CPDI

**Claude WAMPACH**

Chair of the CPDI

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 as amended by Circular CSSF-CPDI 25/44**

**Re : Survey on covered claims in connection with investment business – mode of transmission**

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 “Conseil de protection des déposants et des investisseurs” (“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 of the law of 2015, 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; therefore, they are also required to provide data on covered claims in connection with investment business.

2. The data survey aims at collecting the volume of covered claims (instruments and money) in relation to investment business of which members are-would be debtors should they be unable to repay money owed or return instruments belonging to investors, in accordance with Article ~~198~~195(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 located in other European Economic Area Member States. The CPDI reminds you that pursuant to paragraph 3 of Circular CSSF-CPDI 16/02 as amended by Circular CSSF-CPDI 23/35, 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, a fiducie or a trust within the meaning of the Law of 10 July 2020 establishing a Register of Fiducies and Trusts but they do not apply to collective investment undertakings. The CPDI also refers to paragraphs 4., 4. bis and 4. ter of Circular CSSF-CPDI 16/02 as amended by Circular CSSF-CPDI 23/35 which ~~clarifies~~ clarify the duty to identify persons absolutely entitled to the funds or instruments ~~scope for the purpose~~ of the SIIL 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. Indeed, monies reported by credit institutions and which are covered by the SIIL should be limited to the funds that do not meet the qualification of a deposit as defined by article 163(6) of the law of 2015. Reference is also made to paragraph 3 of the Circular CSSF-CPDI 16/02 as amended by Circular CSSF-CPDI 23/35.

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 of the preceding year. To this end, members are kindly requested to ~~complete one of the sheets~~ provide the data in (simplified or detailed)- form through one of the following means of communication :~~of the document available on the CSSF's website at:~~

- Via CSSF eDesk platform which is also accessible through the CSSF website;  
or
- Via the submission of a structured file through S3 ("simple storage service") protocol.

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

~~A user guide is available on eDesk, explaining the technical procedures for completing, validating and submitting the ICS Yearly Reporting. In case there is no amount to be reported, the transmission to the CPDI remains nevertheless mandatory through one of the aforementioned means of communication by indicating value "0" (= zero) in the corresponding fields. Detailed instructions are provided to fill the survey in the eDesk module. Please note that the transmission of this survey via E-File or SOFiE has been deactivated. 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.~~

~~7. The completed document report in simplified or detailed form shall be transmitted via one of the two secured aforementioned channels (E-File or SOFiE) no later than on 15 November 2016 31 March of the year following the reference period. 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)~~8. In case of errors or omissions in the transmitted data including in case of resubmission after the deadline set in paragraph 7 of this Circular, institutions shall contact cpdi@cssf.lu as soon as the errors and omissions have been noticed by the member in question.

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~~