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STATUTORY INSTRUMENTS

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**2011 No. 99**

**The Electronic Money Regulations 2011**

**PART 3**

**PRUDENTIAL SUPERVISION AND PASSPORTING**

*Safeguarding*

**Safeguarding option 1**

**21.**—(1) An electronic money institution must keep relevant funds segregated from any other funds that it holds.

(2) 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—

- (a) place them in a separate account that it holds with an authorised credit institution; or
- (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.

(3) An account in which relevant funds or relevant assets are placed under paragraph (2) must—

- (a) 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; and
- (b) be used only for holding those funds or assets.

(4) 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.

(5) 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).

(6) 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](#)(<sup>1</sup>) 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.

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(1) OJ No 177, 30.6.2006, p.201.

(7) In this regulation—

“authorised credit institution” means a person authorised for the purposes of the 2000 Act to accept deposits or otherwise authorised as a credit institution in accordance with Article 6 of the banking consolidation directive other than a person in the same group as the electronic money institution;

“authorised custodian” means a person authorised for the purposes of the 2000 Act to safeguard and administer investments or authorised as an investment firm under Article 5 of Directive [2004/39/EC](#) of 12th April 2004 on markets in financial instruments<sup>(2)</sup> which holds those investments under regulatory standards at least equivalent to those set out under Article 13 of that directive.

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(2) OJ No L 145, 30.4.2004, p.1.