

# **Financial Instrument Safeguarding Policy**

**September 2018**

## Financial Instrument Safeguarding Policy

To comply with customer protection objectives set out in Spanish regulations in article 193 of Royal Legislative Decree 4/2015, of 23 October, which approves the revised text of the Securities Market Act (“**Securities Market Act**”), in articles 39, 40, 41, 42 and 65 of Royal Decree 217/2008 of 15 February on the legal system of investment services companies (“**Royal Decree 217/2008**”) and in European regulations set out in directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFID II), Delegated Directive 217/593 with regard to safeguarding of financial instruments and funds belonging to clients and Delegated Regulation 2017/565 as regards organizational requirements and operating conditions for investment firms, all of which refer to safeguarding financial instruments of customers, CaixaBank has established the Policy specified below.

CaixaBank will designate a single person responsible for safeguarding customer assets – a duty that falls to the supervisor of the Banking Services Sub-directorate General - who shall have sufficient skills and authority to carry out their duty effectively and without impediment. His/her main duties shall include the obligation to periodically report to senior executives at the Bank on the supervision of the policy's effectiveness with regard to compliance with the safeguarding of customer assets.

### 1. GENERAL PRINCIPLES OF SAFEGUARDING CUSTOMERS' FINANCIAL INSTRUMENTS

As set out by the aforementioned articles, investment services firms shall take the appropriate measures to safeguard customers' ownership rights, especially in instances of company insolvency and to regulate, where applicable, their own use of customers' financial instruments.

#### Distinction between own and customer assets

CaixaBank has established a structure of securities accounts that enables differentiation between its own financial instruments from those of customers, and within these, identify the assets owned by each of them.

On the domestic market, CaixaBank, in accordance with current regulations, maintains the following account structures:

- Own account, third-party accounts and accounts of Collective Investment Schemes (“**IIC's**”), in the Central Securities Depository (IBERCLEAR) as a participant entity.
- Accounts for end customers in MEFF as a trading and clearing member.

On International Markets, CaixaBank uses EUROCLEAR BANK, BNP PARIBAS Milan, BANK OF NEW YORK MELLON and ALL FUNDS BANK as sub-custodians to carry out settlement and custody of securities and IIC's, and BANCO SANTANDER as an intermediary for financial derivatives clearing and settlement (hereinafter known as "**Sub-custodians**"), with its account structure at said Sub-custodians being as follows:

- Own account, third-party accounts and accounts of IIC's.

Sub-custodians that are not direct members of the Central Securities Depository for the market where they provide service may, in turn, require a third Sub-custodian for custody and settlement of securities.

Exceptionally, CaixaBank may be obliged to use other Sub-custodians for the custody of securities that may come from merger or acquisition transactions of other companies. This occurs where said securities are blocked by the market or are not accepted by the Sub-custodians used by CaixaBank.

### Account reconciliation

CaixaBank maintains the necessary records and accounts so that at all times a customer's assets may be distinguished from those of other customers and CaixaBank's own assets without delay. In turn, the internal records and open accounts ensure the information contained therein is accurate and corresponds to the customers' financial instruments. To do this, CaixaBank carries out the reconciliation processes described below:

#### Domestic Market

- Fixed Income and Equity Instruments: CaixaBank carries out daily reconciliation of the balances in the accounts held at the Central Securities Depository (IBERCLEAR).
- Financial derivative instruments contracted in organized markets: CaixaBank carries out daily reconciliation with regard to the accounts held for every customer at MEFF.
- Issuances with records at bookkeeping companies: CaixaBank carries out monthly reconciliation with regard to the overall balances registered at bookkeeping companies. In addition, annual reconciliation is performed for customer positions.
- Physical securities deposited at the securities vault: CaixaBank carries out reconciliation with a minimum frequency of one year.

### International Markets

- Fixed Income and Equity Instruments: CaixaBank carries out weekly reconciliations of the balances held at Sub-custodians.
- Financial derivative instruments contracted in organized markets: CaixaBank carries out daily reconciliations of the existing balances in the accounts held at BANCO SANTANDER, a company with which CaixaBank has agreed the performance of clearing and settlement services.
- Overseas collective investment schemes (“Overseas IIC’s”): CaixaBank carries out daily reconciliations of the balances held at ALLFUNDS, a company with which CaixaBank has agreed the services of custody and settlement.

Discrepancies detected in the reconciliation processes are analysed and managed for resolution.

In addition to the detailed reconciliation processes, CaixaBank implements, via the Internal Audit Department, periodic reviews, with these reconciliation processes also being included in the review points of the annual External Audit too.

## **2. ASPECTS TO TAKE INTO ACCOUNT IN SUBDEPOSIT INSTANCES**

Article 40 of Royal Decree 217/2008 enables investment firms to deposit financial instruments held by their customers in accounts opened with a third party, on the proviso that the companies act with due competence, attention and diligence in the selection, designation and periodic review of the third party.

The deposit and subdeposit schema at CaixaBank is as follows:

### Domestic Market

CaixaBank subscribes to the Central Securities Depository (IBERCLEAR) settlement and custody platform for Sovereign Debt, Private Fixed Income (AIAF) and Equities, and to the MEFF platform for clearing and settlement of derivatives contracted in organized markets. Therefore, it does not delegate the depositing of its customers' financial instruments with any third party.

### International Markets

CaixaBank uses global and/or local Sub-custodians carry out settlement and custody operations in different international markets where customers perform transactions.

CaixaBank has a procedure that details the criteria followed for the selection, designation and review of sub-custodian entities to ensure that they comply with market requirements and practices to hold assets in the different markets that they cover.

For the purposes of selecting the Sub-custodians, CaixaBank takes into account different aspects including the experience and renown on the market of the selected Sub-custodians, their credit rating, market coverage for settlement and custody of securities, the company's specialization in the field of securities and other aspects such as the quality of information for monitoring the activity, frequency and access to positions held at all times.

MARKET SOLVENCY AND PRESENCE REQUIREMENTS	
<b>Creditworthiness</b>	Solvency ratings awarded by the main international ratings agencies shall be verified (Standard & Poor's, Fitch and Moody's), with the minimum levels having to be fulfilled by the entity and the debt quality issued by the Sub-custodians.
<b>Market and Instrument Coverage for settlement and custody</b>	The coverage of settlement and custody services for required markets and instruments shall be assessed.
<b>Criteria for selecting and reviewing the local sub-custodian network</b>	The selection and review procedure shall be taken into account for companies used as local Sub-custodians.
<b>Reputation, experience and specialization</b>	CaixaBank exclusively uses recognized and renowned companies.
<b>Charges</b>	Competitive rates are required in line with those at similar companies.

OPERATIONAL REQUIREMENTS	
<b>Services and Operational Support, and Communication Systems</b>	The reliability of the operational procedures, level of automation, quality of information and speed of the support shall be assessed.

The designated companies enjoy globally recognized renown, experience and solvency to carry out this activity.

CaixaBank has contracted services with offices of these companies in European Union countries that have specific regulations and supervision for holding financial instruments, with Sub-custodians being subject to these regulations and supervision.

For deposits of instruments issued in non-EU member states, the designated Sub-custodians may in turn require use of local Sub-custodians or central depositories subject to the regulations and supervision of these non-EU member states. In such instances, customers are warned that their rights over said instruments may be different to those subject to legislation of a member state.

CaixaBank similarly assesses compliance at companies that provide it with clearing and settlement services for overseas derivatives with Solvency and Presence Requirements on the applicable market (credit quality, market coverage, reputation, experience and specialization, and rates), as well as adaptation to operational requirements.

The accounts opened at these entities are global meaning, as stated in the appendix to the CaixaBank Securities Deposit and Management contract, that as a result of insolvency of the Sub-custodian, with the appropriate start of insolvency and/or administration or liquidation proceedings, the described operation may, where applicable, include temporary restriction of the availability, a lower value or even loss of the financial instruments owned by the customer or of the rights deriving from those financial instruments. Due to the aforementioned legal risks, the following could specifically occur:

- Delays in the execution of orders that represent movement of the deposited assets.
- Partial loss of the deposited securities or recovery of costs in the event that the assets effectively held by the Sub-custodian were insufficient to cover customer claims or the Sub-custodian were subject to bankruptcy proceedings.

In any event, CaixaBank may only deposit its customers' financial instruments at a third party domiciled in a state not subject to regulations and supervision of financial instrument custody for third parties where any of the following conditions apply:

- Due to the nature of the financial instruments or services relating to these instruments custody is required to be performed at a third party of that country.
- The financial instruments belong to a professional customer and the latter requests in

writing that CaixaBank deposits at a third party in that country.

### Operational processes

CaixaBank has set up real-time connection mechanisms for communication with its Sub-custodians than enable immediate and constant access to account information, particularly regarding assets in custody, settlement transactions and corporate events that occur with regard to customer positions.

The reconciliation processes are specified above (“account reconciliation” section in Point 1 of this document).

### Outsourcing Arrangements

Based on the structure of CaixaBank with regard to securities custody, it may be stated that CaixaBank has no outsourcing arrangement currently, considering:

- On the Domestic Market: CaixaBank is a direct participant in different subsystems set up at the Central Depository.
- On International Markets: CaixaBank uses an international sub-custodian schema in line with general market practice. This type of support does not mean that CaixaBank has outsourced its custody duties and international securities settlement with different Sub-custodians, but instead that these companies are service providers.

CaixaBank only outsources admin activities specific to settlement, clearing and custody activity.

## 3. ASPECTS TO TAKE INTO ACCOUNT REGARDING THE SAFEGUARDING OF CUSTOMERS' CASH DEPOSITS

As a credit institution with official administrative authorization from the Bank of Spain and as an authorized institution as per Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, amended by Directive 2013/36/EU of 26 June 2013, CaixaBank acts directly as a depository for its customers' cash accounts.

## 4. USE OF CUSTOMERS' FINANCIAL INSTRUMENTS

In compliance with what is set out in articles 193 of the Securities Market Act and 42 of Royal Decree 217/2008, CaixaBank does not use financial instruments it holds for its customers to undertake finance operations for its own business.

There are currently no agreements between CaixaBank and its customers to undertake financing operations using financial instruments owned by its customers.

Movements of financial instruments are based solely on instructions given by customers or in compulsory corporate movements.

### **Controls that ensure financial instruments are not used**

Compliance with this policy is controlled as per the methods set out below:

- A log of orders and transaction is kept that includes the instructions given by customers.
- Own and customer balance reconciliation as per what is set out in the "Accounts Reconciliation" section in Point 1 of this document.
- Confirmation sent to customers for each movement made in their securities account, setting out the specific details of the transaction and its global position.

### **Possible use of customers' financial instruments in the future**

CaixaBank shall only be able to set up arrangements for securities financing operations using customers' financial instruments or use them in any other way both on its own behalf and on customers' behalf in accordance with the following requirements.

- i. The customer gives express prior consent to the use of its financial instruments. For retail customers, said consent shall require a written document signed by the customer or any equivalent alternative mechanism.
- ii. The use of financial instruments shall comply with the conditions specified and accepted by the customer.

In addition to the above, where the use of financial instruments is authorized by the customer and they are deposited in a global account, as long as applicable regulations allow it, the following requirements shall apply:

- i. Prior, express and written individual consent shall be needed from customers whose instruments have been deposited in a global account.
- ii. CaixaBank shall need to have systems and controls in place that ensure the instruments are only used if the customer has provided express consent.
- iii. A record of these transactions must be kept that includes:
  - 1º The details of the customer whose instructions have been followed to use the financial instruments.
  - 2º The number of financial instruments used that belong to each customer who has given their consent (to be able to properly attribute possible losses thereto).

## 5. CUSTOMER NOTIFICATION REGARDING RELEVANT ASPECTS TO SAFEGUARDING

CaixaBank provides its customers with information on the safeguarding of customers' financial instruments or funds. It informs them about the possibility that the financial instruments or funds may be deposited at a third party by the institution, as well as CaixaBank's liability, by virtue of applicable national legislation, for any act or omission of the third party and of the consequences for its customers from bankruptcy of said third party. In turn, where customers' financial instruments are deposited in a global account at a third party, customers are informed beforehand and clearly warned about the resulting risks.

In this regard, deposit and management contracts are agreed and signed by customers that set out the main aspects relating to the management of the financial instruments through Sub-custodians and CaixaBank's guarantees over them.

In the event that in accordance with legislation in the country where customers' financial instruments are deposited it is not possible to differentiate customers' financial instruments held by a third party from those owned by the third party, CaixaBank shall notify its customers and advise them accordingly about the resulting risks.

CaixaBank shall notify customers where accounts holding funds or financial instruments are subject to legislation of a non-EU member state. In turn, it shall notify customers about the existence and conditions of any security interest or lien or compensation that CaixaBank has or may have over customers' financial instruments and funds.

Lastly, CaixaBank provides its customers with this Document on the Financial Instrument Safeguarding Policy which sets out all the procedures, customer rights and CaixaBank liabilities with regard to safeguarding customers' financial instruments and funds deposited at CaixaBank.

## 6. REVIEW AND EVALUATION OF THE SAFEGUARDING POLICY

The review and evaluation of the financial instruments safeguarding policy are performed at different times:

- Periodic reviews by Regulatory Compliance.
- Internal Audits according to the calendar set out in the audit plan.
- Annual External Audit.