



# Circular Letter CSSF

UCI FINANCIAL YEAR-END ASSET  
CONFIRMATIONS TO BE PROVIDED  
BY THE UCI DEPOSITARY

## Circular Letter CSSF

UCI financial year-end asset confirmations to be provided by the UCI depositary

Luxembourg, 16 December 2020 Ladies and Gentlemen,

### To UCI Depositaries and UCI Auditors

The CSSF hereby clarifies its supervisory expectations in relation to the asset inventory confirmation to be provided by UCI depositaries in accordance with points 151 and 152 of CSSF Circular 18/697 and points 36 and 37 of CSSF Circular 16/644, which in turn are related to legal obligations under article 18(4) respectively 34(3) of the UCITS Law and 19(8) of the AIFM Law (the "Confirmation").

The Confirmation has to reflect the legal obligations of a UCI depositary in relation to the safekeeping of assets, including by distinguishing between *financial instruments that can be registered in a financial instruments account* and *other assets* as per the applicable legal provisions and terminology.

The CSSF expects such Confirmation in relation to *financial instruments that can be registered in a financial instruments account* to be exhaustive and no general nor specific disclaimers in relation to this part of the Confirmation are permissible.

In relation to the Confirmation of *other assets*, it is expected that *other assets* reflected in such Confirmation have been subject to adequate ownership verification in accordance with applicable legal provisions.

It is understood that, in relation to *other assets*, the proper execution of safekeeping tasks entails that the depositary is informed in a timely manner about any acquisition, sale, transfer, conversion or any other action in relation to a given *other asset*. Therefore the Confirmation can state that, in terms of exhaustiveness/completeness, the inventory of *other assets* has been established on the basis of information made available by the Investment Fund Manager, the UCI or a third party appointed by either of them, or any other third parties involved in the holding chain of assets, as the case might be.

Further disclaimers on this part of the Confirmation are equally permissible when related to certain assets for which the depositary considers it is necessary to qualify the result of its ownership verification.

In the context of *other assets*, the CSSF expects inventories to reflect assets, as defined under the fund investment policies, for which depositaries have applied their ownership verifications on a look through basis in accordance with their safekeeping obligations (as set out under article 19 8) b) of the AIFM Law and article 90 of the CDR 231/2013). In these instances, inventories should disclose the chain of ownership verified by the depositary consisting of the entities directly or indirectly controlled by the funds.

The CSSF further clarifies that current, future and contingent liabilities of the funds are excluded from the scope of inventory requirements. This applies, in particular, to total commitments (including non-called capital commitment) entered into by a given UCI towards an external party or target investment (applicable mainly to alternative investment funds). Specifically, capital commitment do not have to be part of the Confirmation, on the ground that they do not qualify as an asset of a given UCI from a depositary perspective.

Lastly, the CSSF considers that all the guarantees and securities the UCI received or provided as collateral belonging to the UCI in the form of financial instruments or cash, shall be part of the Confirmation and identified as such. Hence, the Confirmation shall mention the assets belonging to the UCI which have been received, pledged or given as collateral. Rights associated to asset given under title transfer, which are identified by the depositary as part of its various obligations, can be disclosed and described as such in the inventory.

Yours faithfully,

**Laurent van Burik**  
Conseiller

**Marco Zwick**  
Director





**Commission de Surveillance du Secteur Financier**  
283, route d'Arlon  
L-2991 Luxembourg (+352) 26 25 1-1  
[direction@cssf.lu](mailto:direction@cssf.lu)  
[www.cssf.lu](http://www.cssf.lu)