

# Analysis of agreements concluded by EMIs and PIs with credit institutions for custody of client funds



42

Selected institutions that held client funds with credit institutions

24 EMIs

18 PIs

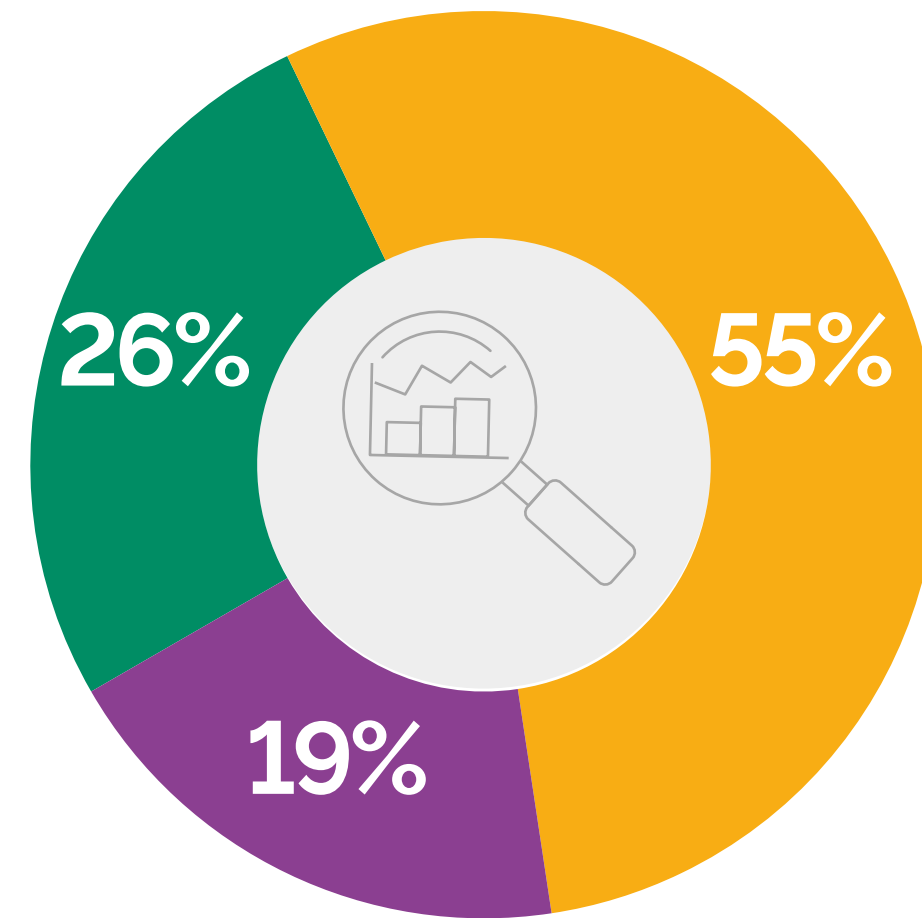


Documentary analysis of agreements for custody of client funds and annexes thereto concluded with credit institutions was performed



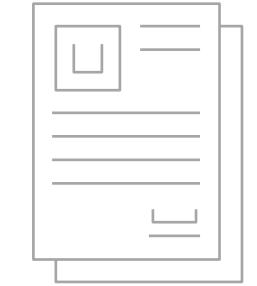
It was assessed whether the provisions of agreements concluded by EMIs and PIs with credit institutions for custody of client funds ensure adequate and effective safeguarding of client funds in the course of the institution's operation or in the case of its insolvency.

## Results of EMI/PI analysis



- Comply with the requirements
- Partly comply with the requirements
- Do not comply with the requirements

## FINDINGS AND ACTIONS



- ✓ Some institutions, when concluding new agreements with credit institutions for custody of client funds, failed to ensure that the terms of agreements would be in line with legal requirements, or did not update the terms of previous agreements in time, upon the entry into force of the detailed requirements for the safeguarding of client funds as of 1 January 2021.
- ✓ The Bank of Lithuania has contacted:
  - all institutions whose agreements for custody of client funds were found to have shortcomings;
  - credit institutions operating in Lithuania whose agreements for custody of client funds concluded with the institutions were found to have shortcomings.
- ✓ All institutions have already taken action to address the shortcomings: some have already remedied them and some have contacted credit institutions by initiating changes to the terms of the agreements.

## Main shortcomings of agreements for custody of client funds:



The agreements **do not specify** that a certain account is intended solely for the custody and processing of client funds transferred to the institution, or solely for the custody and management of securities purchased with client funds.



The agreements **do not specify** that such funds and securities remain in the ownership of the clients who transferred them and that no execution may be levied on such funds according to the debts of the institution.



When opening deposit accounts, the fact of acting in a fiduciary capacity is disclosed, but there is **no disclosure** as to on whose behalf the account agreement is concluded, nor is there specification of the law in accordance with which the account is opened.



When segregation of funds by investing is opted for, the agreements **do not cover** any obligation of the securities custodian to invest funds only in safe, liquid and low-risk assets, and to apply requirements for depositing funds derived from securities that are similar to those for depositing funds in a separate account.



Funds are deposited with a payment institution.



Irrevocable fixed-term deposit agreement is concluded with a credit institution.



Law on Electronic Money and Electronic Money Institutions



Law on Payments Institutions



Resolution on Requirements for Electronic Money and Payment Institutions regarding the Governance Arrangements and Safeguarding of Received Funds