

WHAT ARE THE CLIENT ASSET REQUIREMENTS (“CAR”)?

The manner in which AFEX Markets Europe Limited (“AFEX”) handles your assets is governed by the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2017 (the “Regulations”) and the Central Bank of Ireland (the “CBI”) guidance on Client Asset Regulations for Investment Firms (together referred to as the Client Asset Requirements or CAR below).

The purpose of the Client Asset Requirements are to set regulatory standards for regulated financial services providers like AFEX which are designed to ensure that client assets held by us on your behalf are adequately safeguarded and protected and to enable a swift distribution of those client assets if AFEX were to fail. However, while the purpose of Client Asset Requirements is to regulate and safeguard the handling of client assets, it is never possible to fully eliminate all risks and we identify some key risks below for your information.

The Regulations and the associated CBI guidance are available on the CBI’s website:

www.centralbank.ie/regulation/industry-market-sectors/client-assets.

We have prepared this document known as a Client Asset Key Information Document (“CAKID”) for retail and professional clients to review and consider before placing any money in the form of client funds with us in order to;

- i) explain certain key features of the Client Asset Requirements;
- ii) provide you with information on our arrangements for safeguarding your client assets; and
- iii) set out key risks relating to your client assets.

KEY FEATURES OF “CAR”

CAR obliges firms that hold client assets to put in place certain safeguards to help ensure that clients’ assets are protected. AFEX is required to;

- hold client assets separate to our own assets which we do through depositing client funds in client asset accounts with a credit institution which have been appropriately segregated in accordance with CAR;
- obtain acknowledgement from the credit institution that the client funds in the client asset accounts belong to our clients and not us;
- maintain accurate records of each client’s entitlement to client funds and conduct daily reconciliations of our internal records against those of the credit institution;
- ensure what we are holding is the correct level of client funds on a daily basis;
- inform you through our terms of business and this CAKID of our arrangements and where relevant obtain consent to the manner in which your assets are held;
- have and apply appropriate risk management processes and systems, including documented policies and procedures to ensure that we are effectively safeguarding your assets;
- carry out counterparty due diligence;
- carry out an annual client asset examination by the firm’s external auditors, the results of which must be reported to the Central Bank of Ireland.

WHAT ARE CLIENT ASSETS?

Client assets include;

- ❑ **Client Funds:** Any money, to which you are beneficially entitled, which we have received from you or on your behalf. It includes bank transfers paid to us. We do not accept or process any cheques or payable orders such as bank drafts.
- ❑ **Mark to Market:** Mark to market is the unrealised market movement on option positions which have not yet expired. This will be the movement between the exchange rate and the actual closing rate at the end of each business day which is calculated on the notional value of the option trade.
- ❑ **Client Financial Instruments:** Any financial instrument (for example, shares, bonds and units held in collective investment schemes) held on your behalf including any held with a nominee. Please note that AFEX does not hold or accept financial instruments in the form of client financial instruments.

The values assigned to your investments are not covered by the Regulations.

THE CIRCUMSTANCES IN WHICH CAR APPLIES AND DOES NOT APPLY

Do apply:

- ❑ To money belonging to you and received by us in respect of activities which are regulated financial services. This would apply, for example, to initial and variation margin you place with us in accordance with the terms of business to open and maintain a position in FX derivatives (such as options) which are in scope of the MiFID Regulations ("MiFID transaction").
- ❑ Once a bank transfer is received by us except where it is payable to a third party and transmitted by AFEX to that party.
- ❑ To the proceeds of a deal in a MiFID transaction owing to you following the settlement of that transaction until such time as we complete the payment of those proceeds to you or your agreed third-party beneficiary.
- ❑ Mark to market on open option trades. Mark to market will be the movement in exchange rate between the agreed fx rate at the inception of the option compared to the actual rate at the end of each business day. This movement in rate is applied to the notional value of the trade to calculate the mark to market movement which is unrealised but must be captured in the client money calculation.

Do not apply:

- ❑ When your funds have been received by us in respect of activities which are not regulated financial services under the Regulations.
- ❑ Where funds are transferred to us or are appropriated by us in accordance with the agreed terms of business to discharge your liability to us (for example where you default on your obligation to settle a transaction with us we will appropriate margin we hold as client funds to the extent required to discharge your liability without prejudice to our other rights under the terms of business).
- ❑ Where we have completed a payment of the client funds to you or a third-party beneficiary nominated by you by written instruction to us.

WHO HOLDS MY CLIENT FUNDS UNDER CAR, AND HOW?

Your client funds will be held in a pooled client asset deposit account or, by exception and where agreed by us, in an individually designated client asset deposit account. Under a pooled arrangement, client funds of more than one client are held in the same client asset account. The client asset account will be opened and maintained only with eligible credit institutions. The names of the credit institutions where we deposit client funds are set out below:

Barclays Bank Ireland plc (Ireland)

Client funds are protected by rules laid out in the Regulations which include obligations relating to the segregation of client funds from the firm's own funds, accurate record keeping, regular reconciliations between the firm's records and those of the eligible credit institutions and due diligence on the credit institutions where we place client funds to ensure they are of sufficient financial strength.

Transactions in respect of the client asset account will only be undertaken based on an instruction from us and pursuant to our terms of business with you.

Prior to lodging client funds with an eligible credit institution, we receive a written confirmation from the credit institution that the funds in the client asset account are legally segregated from any bank account that AFEX itself may hold and are not subject to any set-off or similar rights for liabilities of AFEX to the bank. AFEX will retain any interest which arises on client funds held in client asset accounts. Money not immediately required to settle an investment transaction may not attract credit interest but may attract cash handling charges. Negative cash balances on your account may attract debit interest.

Client funds are lodged to a client asset account in the same currency as they are received, unless we do not have a client asset account in that currency, and it would be unduly burdensome to open one. Amounts are converted at the rates prevailing when lodged to the client asset account.

AFEX in selecting relevant credit institutions to hold client assets on behalf of its clients undertake an assessment, at least biannually, covering;

- i) the institution's credit standing having reference to external credit ratings (where available);
- ii) known service levels for the institution (where we have past experience with the institution);
- iii) what your rights would be if the relevant bank were to fail.

Where the credit institution is not in Ireland, a similar assessment is undertaken. Particular attention is paid to establishing the relevant regulations and compensation scheme in the event of failure of the relevant bank.

Once a credit institution has been selected to hold client assets a funds facilities letter confirming specified details, as set out in the Regulations, will be obtained from the institution prior to lodging any client funds with that institution.

WHAT ARE THE MAIN RISKS OR LIMITATIONS TO SAFEGUARDING CLIENT ASSETS?

While CAR imposes obligations on firms to segregate client funds from a firm's own funds, as well as other requirements, it does not protect or guarantee the value of the client funds.

The material risks relating to safeguarding client funds are outlined below. Various other risks may also apply.

DEFAULT RISK

This is the risk that the credit institution at which client funds are held becomes insolvent or otherwise fails and defaults on its obligations to AFEX to repay all client funds held with the credit institution.

OPERATIONAL RISK

This is the risk that the credit institution at which client funds are held becomes insolvent or otherwise fails and defaults on its obligations to AFEX to repay all client funds held with the credit institution.

RISK OF FRAUD

This is the risk that the credit institution at which client funds are held becomes insolvent or otherwise fails and defaults on its obligations to AFEX to repay all client funds held with the credit institution.

RISK OF POOLING

There is a risk that one client's assets will be temporarily used to fund another client's transactions; that AFEX fails to appropriately implement accounting segregation or that the pool may have a deficit. In that scenario, any losses would be applied on a pro-rata basis across all clients participating in the pool or on some other basis in accordance with applicable law such that an individual client does not receive their full entitlement and therefore suffers a loss.

CONTROLS IN PLACE TO MITIGATE RISK

AFEX minimises these risks through its systems and controls including;

- ❑ undertaking due diligence and risk assessments of institutions with whom client funds are held;
- ❑ ensuring adequate oversight of client funds is maintained through documented procedures and controls to minimise the risk of loss for clients;
- ❑ undertaking daily reconciliations of our records and the records of client funds with the credit institution and daily calculations of the client money held for clients as per our records with the client money resource that should be held with the credit institution;
- ❑ ensuring that we have adequate controls on who can authorise payments from the client asset accounts;
- ❑ AFEX is required to engage external auditors to examine the firm's compliance with CAR on an annual basis. After the completion of the audit, the external auditor must report its findings to both AFEX and the Central Bank of Ireland;
- ❑ The Central Bank of Ireland supervises AFEX as it is responsible for the regulation and supervision of investment firms in Ireland. As a regulated entity, we are subject to close scrutiny and review by the Central Bank to ensure that we have met our regulatory requirements, including detailed requirements in place with regard to the safeguarding of client assets. To help facilitate this oversight we are required to submit regular reports to the Central Bank, one of which is a monthly report that relates specifically to client assets.

Clients should be aware that the information set out in this document in relation to the application of the client asset regime by AFEX, when it applies and how client assets are determined and dealt with by AFEX, is not exhaustive. In the event that you have any questions please do not hesitate to call your normal AFEX contact.