(c) check the completeness and accuracy of dividend payments, once they are declared by the AIFM, and, where relevant, of the carried interest.

2. Where a depositary considers that the income calculation has not been performed in compliance with applicable law or with the AIF rules or instruments of incorporation, it shall notify the AIFM and, as the case may be, or the AIF and ensure that timely remedial action has been taken in the best interest of the AIF’s investors.

**Article 98**

**Due diligence**

1. In order to fulfil the obligations laid down in point (c) of Article 21(11) of Directive 2011/61/EU a depositary shall implement and apply an appropriate documented due diligence procedure for the selection and ongoing monitoring of the delegate. That procedure shall be reviewed regularly, at least once a year, and made available upon request to competent authorities.

2. When selecting and appointing a third party, to whom safekeeping functions are delegated in accordance with Article 21(11) of Directive 2011/61/EU, a depositary shall exercise all due skill, care and diligence to ensure that entrusting financial instruments to this third party provides an adequate standard of protection. It shall at least:

   (a) assess the regulatory and legal framework, including country risk, custody risk and the enforceability of the third party’s contracts. That assessment shall in particular enable the depositary to determine the potential implication of an insolvency of the third party for the assets and rights of the AIF. If a depositary becomes aware that the segregation of assets is not sufficient to ensure protection from insolvency because of the law of the country where the third party is located, it shall immediately inform the AIFM;

   (b) assess whether the third party’s practice, procedures and internal controls are adequate to ensure that the financial instruments of the AIF or of the AIFM acting on behalf of the AIF are subject to a high standard of care and protection;

   (c) assess whether the third party’s financial strength and reputation are consistent with the tasks delegated. That assessment shall be based on information provided by the potential third party as well as other data and information, where available;

   (d) ensure that the third party has the operational and technological capabilities to perform the delegated custody tasks with a satisfactory degree of protection and security.

3. A depositary shall exercise all due skill, care and diligence in the periodic review and ongoing monitoring to ensure that the third party continues to comply with the criteria provided for in paragraph 1 of this Article and the conditions set out in point (d) of Article 21(11) of Directive 2011/61/EU. To this end the depositary shall at least:

   (a) monitor the third party’s performance and its compliance with the depositary’s standards;

   (b) ensure that the third party exercises a high standard of care, prudence and diligence in the performance of its custody tasks and in particular that it effectively segregates the financial instruments in line with the requirements of Article 99;

   (c) review the custody risks associated with the decision to entrust the assets to the third party and without undue delay notify the AIF or AIFM of any change in those risks. That assessment shall be based on information provided by the third party and other data and information where available. During market turmoil or when a risk has been identified, the frequency and the scope of the review shall be increased. If the depositary becomes aware that the segregation of assets is no longer sufficient to ensure protection from insolvency because of the law of the country where the third party is located, it shall immediately inform the AIFM.

4. Where the third party further delegates any of the functions delegated to it, the conditions and criteria set out in paragraphs 1, 2 and 3 shall apply mutatis mutandis.

5. A depositary shall monitor compliance with Article 21(4) of Directive 2011/61/EU.

6. A depositary shall devise contingency plans for each market in which it appoints a third party in accordance with Article 21(11) of Directive 2011/61/EU to perform safekeeping duties. Such a contingency plan shall include the identification of an alternative provider, if any.

7. A depositary shall take measures, including termination of the contract, which are in the best interest of the AIF and its investors where the delegate no longer complies with the requirements.

**Article 99**

**Segregation obligation**

1. Where safekeeping functions have been delegated wholly or partly to a third party, a depositary shall ensure that the third party, to whom safe-keeping functions are delegated pursuant to Article 21(11) of Directive 2011/61/EU, acts in accordance with the segregation obligation laid down in point (iii) of Article 21(11)(d) of Directive 2011/61/EU by verifying that the third party: