LEGALLY REQUIRED PARTICIPANT DISCLOSURE

CSDR ARTICLE 38(6) and FMIA ARTICLE 73, para. 4

1. Introduction

The purpose of this document is to disclose the levels of protection associated with the different levels of segregation that we provide in respect of securities that we hold directly for clients with Central Securities Depositories (CSDs) within the European Union (EU) and Switzerland, including a description of the main legal implications of the respective levels of segregation offered and information on the insolvency law applicable.

This disclosure is required under Article 38(6) of the Central Securities Depositories Regulation (CSDR) in relation to CSDs domiciled in the EU and Article 73, para. 4, of the Swiss Financial Market Infrastructure Act (FMIA) in relation to CSDs domiciled in Switzerland. The information provided herein is subject to Luxembourg law.

This document is not intended to constitute legal or other advice and should not be relied upon as such. Clients should seek their own legal advice if they require any guidance on the matters stated herein.

EU

Pictet & Cie (Europe) S.A., a Luxembourg bank domiciled in Luxembourg ("the Bank"), is a Participant of CSDs domiciled in the EU. According to CSDR Article 38, paras. 5 and 6, a Participant of such CSD must offer its clients at least the choice between omnibus client segregation and individual client segregation and inform them of the costs and risks associated with each opinion, including a description of the main legal implications of the respective levels of segregation offered and information on the insolvency law applicable.

Switzerland

The Bank is also a Participant of SIX SIS AG (SIX SIS), a CSD domiciled in Switzerland. FMIA Article 73, para. 2, requires the Bank to offer indirect participants[1] of a Swiss CSD (i.e. SIX SIS) the possibility of omnibus client segregated accounts or individual client segregated accounts. Furthermore, according to FMIA Article 73, para. 4, the Bank must publish the respective costs and specifics concerning the level of protection granted by different types of accounts. Respective information on costs is provided otherwise[2].

2. Background

In our own books and records, we record each client's individual entitlement to securities that we hold for that client in a separate client account. We also open accounts with CSDs in our own name (i.e. the account is held in our name but designated as a client account), in which we hold clients' securities. As a general rule, we make two types of accounts with CSDs available to clients: Individual Client Segregated Accounts (ISAs) and Omnibus Client Segregated Accounts (OSAs).

An ISA is used to hold the securities of a single client (which can be a single legal entity or an institution representing multiple legal entities), and therefore the client's securities are held separately from the securities of other clients and our own proprietary securities.

[1] Only clients of a Participant acting themselves as providers of securities accounts are considered indirect participants under FMIA Article 73, para. 2.

[2] Information available in a separate document.

An OSA is used to hold the securities of a number of clients on a collective basis. We do not hold our own proprietary securities in OSAs.

3. Main legal implications of levels of segregation

Insolvency

Clients' legal entitlement to the securities that we hold for them directly with CSDs would not be affected by our insolvency, regardless of whether those securities were held in ISAs or OSAs.

The distribution of the securities in practice in the event of an insolvency would depend on a number of factors, the most relevant of which are discussed below.

Application of Luxembourg insolvency law

Were we to become insolvent, our insolvency proceedings would take place in Luxembourg and be governed by Luxembourg insolvency law. A trustee would be appointed to liquidate our assets and distribute them to customers and creditors under court supervision.

Nevertheless, foreign branches of a Luxembourg bank may also be subject to insolvency proceedings in the foreign location in question governed by local insolvency law.

Under Luxembourg law, securities that we held on behalf of clients would not form part of our estate on insolvency for distribution to creditors. Rather, they would be deliverable to clients in accordance with each client's *in rem* rights in the securities.

As a result, it would not be necessary for clients to make a claim in our insolvency as a general unsecured creditor in respect of those securities. Securities that we held on behalf of clients would also not be subject to any bail-in process (see the Glossary), which may be applied to us if we were to become subject to resolution proceedings (see the Glossary).

Accordingly, where we hold securities in custody for clients, they should be protected on our insolvency or resolution. This applies regardless of whether the securities are held in an OSA or an ISA. Insolvency proceedings may, however, delay restitution of the securities to the client, amongst others because an insolvency practitioner may require full reconciliation of the books and records in respect of all securities accounts prior to releasing any securities from those accounts.

Nature of clients' interests

Luxembourg law provides a protective measure in favour of clients holding book-entry securities in an account with us, which consists of granting clients a right *in rem* in such securities and not merely a personal claim. The client has a right *in rem* of an intangible nature, up to the number of securities booked to the client's securities account held with us, on the entirety of the securities of the same kind held in accounts by us (the "securities entitlement") as the immediate account provider, i.e. as the account provider who has opened the client's securities account. This is in addition to any contractual right a client may have against us to have the securities delivered to them.

According to Luxembourg law, the securities entitlement can only be exercised by the client against the client's immediate account provider, even if the latter has sub-deposited the securities in its name with a higher-tier intermediary. This means that the client can generally only exercise their rights in relation to securities entitlements against us and not against CSDs, with which we hold accounts, regardless of whether the client's securities are held in ISAs or OSAs.

Shortfalls

If there were a shortfall between the number of securities that we are obliged to deliver to clients and the number of securities that we hold on their behalf in either an ISA or an OSA, this could result in fewer securities being returned to clients on our insolvency than the clients are entitled to.

The way in which a shortfall might arise and would be treated may be different as between ISAs and OSAs.

How a shortfall may arise

A shortfall might arise for a number of reasons, including as a result of administrative error, intraday movements or counterparty default.

We do not permit clients to make use of or borrow securities belonging to other clients for intra-day settlement purposes, even where the securities are held in an OSA, in order to reduce the chances of a shortfall arising as a result of the relevant client failing to meet their obligations to reimburse the OSA for the securities used or borrowed.

Treatment of a shortfall

In the case of an ISA[3], the whole of any shortfall on that ISA would be attributable to the client for whom the account is held and would not be shared with other clients for whom we hold securities. Similarly, the client would not be exposed to a shortfall on an account held for another client or clients.

In the case of an OSA, the shortfall would be shared among the clients in relation to the securities held in the OSA. Therefore, a client may be exposed to a shortfall even where securities have been lost in circumstances which are completely unrelated to that client.

The risk of a shortfall arising is, however, mitigated as a result of our obligation, in the event of the available quantity of specific securities being insufficient, to cover the loss by securities of the same nature belonging to us in certain circumstances and within the limits set out by law.

If a shortfall arose and we did not hold a sufficient number of securities of the same nature belonging to us, clients might have a claim against us for any loss suffered. If we were to become insolvent prior to covering a shortfall, clients would rank as general unsecured creditors for any amounts owing to them in connection with such a claim. Clients would therefore be exposed to the risks of our insolvency, including the risk that they might not be able to recover all or part of any amounts claimed. In such circumstances, clients could be exposed to the risk of loss on our insolvency.

In order to calculate clients' shares of any shortfall in respect of an OSA, each client's interests with respect to securities held within that account would need to be established as a matter of law and fact based on our books and records. Any shortfall in a particular security held in an OSA would then be allocated among all clients with an interest in that security in the account. It is likely that this allocation would be made rateably between clients with an interest in that security in the OSA, although arguments could be made that, in certain circumstances, a shortfall in a particular security in an OSA should be attributed to a particular client or clients. It may therefore be a time-consuming process to confirm each client's entitlement. This could give rise to delays in returning securities and initial uncertainty for a client as to their actual entitlement on an insolvency.

Security interests

Security interest granted to CSDs

Security interests granted over clients' securities could have a different impact in the case of ISAs and OSAs.

Where a CSD benefits from a security interest (either it benefits from a statutory right or a contractual right based on its terms and conditions) over securities held by us with it (including securities held for clients), there could be a delay in the return of securities to a client (and a possible shortfall) in the event of our failing to fulfil our obligations to a CSD and the security interest was enforced. This applies regardless of whether the securities are held in an ISA or an OSA. However, in practice, we would expect a CSD to first seek recourse to any securities held in our own proprietary accounts to fulfil our obligations and, only then, make use of securities in client accounts. We would also expect a CSD to enforce its security rateably across client accounts held with it.

Security interest granted to a third party

Where a client purported to grant a security interest over its interest in securities held in an OSA and the security interest was asserted against the CSD with which the account was held, there could be a delay in the return of securities to all clients holding securities in the relevant account (and a possible shortfall in the account). However, in practice, we would expect that the beneficiary of a security interest (pledgee) over a client's securities would perfect its security by notifying us rather than the relevant CSD and would seek to enforce the security against us rather than against the CSD, with which it had no relationship.

[3] Clients should note that, for the purposes of this section, if a client elects for an ISA as part of an intra-fund arrangement whereby the assets of that client and any assets of any of the client's related funds are "ring-fenced" from the assets of other clients that are not related funds, then this type of ISA may be treated as an OSA if there is a shortfall, notwithstanding the client's election of an ISA.

4. CSD disclosures

Set out below are links to the disclosures made by the CSDs in the EU in which Pictet & Cie (Europe) S.A. is a Participant:

Clearstream Banking S.A. (CBL)

https://www.clearstream.com/clearstream-en/strategy-and-initiatives/asset-safety/csdr-article-38-disclosure

LuxCSD S.A.

https://www.clearstream.com/luxcsd-en/strategy-and-initiatives/asset-safety/csdr-article-38-disclosure

Euroclear Bank SA/NV

https://ecsda.eu/disclosures-csdr-art-38

If you click on these links, you leave this information/website. These disclosures have been provided by the relevant CSDs. We have not investigated or performed due diligence on the disclosures and websites, and clients rely on the CSDs' disclosures and websites at their own risk.

GLOSSARY

Bail-in refers to the process under the Luxembourg law of 18 December 2015 on the resolution, reorganisation and winding-up measures of credit institutions and certain investment firms and on deposit guarantee and investor compensation schemes (the "2015 Law") applicable to failing Luxembourg banks and investment firms under which the firm's liabilities to clients may be modified, for example by being written down or converted into equity.

Central Securities Depository (CSD) is an entity which records legal entitlements to dematerialised securities and operates a system for settlement of transactions in those securities.

Central Securities Depositories Regulation (CSDR) refers to EU Regulation 909/2014 which sets out rules applicable to CSDs and their participants.

Direct participant means an entity that holds securities in an account with a CSD and is responsible for settling transactions in securities that take place within a CSD. A direct participant should be distinguished from an indirect participant, which is an entity, such as a global custodian, which appoints a direct participant to hold securities for it with a CSD.

Resolution proceedingsare proceedings for the resolution of failing Luxembourg banks and investment firms under the 2015 Law.

Segregated accounts means an ISA and/or an OSA, as the case may be.

Graphic representation of OSA and ISA

OSA (example with three clients C1–C3)

ISA (Example with client C1)