Article 38(6) CSDR Risk Disclosure

Participant Disclosure about securities held directly for clients with Central Securities Depositories (CSDs) within the European Union

1. Introduction[1]

The purpose of this document is to disclose the levels of protection associated with the different levels of segregation in respect of securities held directly for clients with Central Securities Depositories (CSDs) within the European Union (EU), 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 Art. 38(6) of the Central Securities Depositories Regulation (CSDR) in relation to CSDs domiciled in the EU. The information provided herein is, unless otherwise provided, subject to Swiss law.

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

EU

UBS AG, a Swiss bank incorporated in Switzerland (the "**Bank**") acting through its local branches in Singapore and Hong Kong, is a Participant of CSD(s) domiciled in the EU. According to Art. 38 para. 5 and 6 CSDR a Participant of such CSD shall 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 option including a description of the main legal implications of the respective levels of segregation offered and information on the insolvency law applicable.

Under CSDR, the CSDs of which the Bank is a Participant have their own disclosure obligations. We include links to those disclosures in this document.

2. Background

In the Bank's own books and records, the Bank records each client's individual entitlement to securities that it holds for that client in a separate client account. The Bank also opens accounts with EU CSDs in its own name (i.e. the account is held in the name of the Bank but designated as a client account) in which it holds clients' securities. As a general rule, the Bank makes two types of accounts with EU 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 and therefore the client's securities are held separately from the securities of other clients and the Bank's own proprietary securities.

An OSA is used to hold the securities of a number of clients on a collective basis. However, the Bank does not hold its own proprietary securities in OSAs.

3. Main legal implications of levels of segregation under Swiss law

Insolvency (bankruptcy)

If a Swiss bank were to become insolvent, the insolvency proceedings would take place in Switzerland and be governed by Swiss insolvency law. Nevertheless, foreign branches of a Swiss bank may also be subject to insolvency proceedings in the foreign location in question governed by local insolvency law. In this regard, we refer you to section 3A (*Singapore Insolvency Proceedings*) and Section 3B (*Hong Kong Insolvency Proceedings*) below.

Clients' legal entitlement to the securities that a Swiss bank holds for them directly with EU CSDs would generally (except in specific circumstances, some of which are discussed below) not be affected by the bank's insolvency (bankruptcy), regardless of whether those securities were held in ISAs or OSAs.

In practice, the exclusion of securities from a Swiss bank's bankruptcy estate would further depend on a number of additional factors, the most relevant of which are discussed below.

Exclusion from the bank's bankruptcy estate

Under Swiss insolvency laws, intermediated securities and certain other safe custody assets

[1] At the end of this document is a glossary explaining some of the technical terms used in the document.

within the meaning of the Banking Act booked on safekeeping accounts held by clients with a Swiss bank, as well as certain readily available claims of the bank to receive delivery of securities from third parties, do not form part of the bankruptcy estate. Instead, in an insolvency (bankruptcy) of a bank, they are designated to be excluded in favour of the relevant client, subject to any claims the bank has against the client.

According to Art. 11 FISA, a Swiss bank must hold with itself or with a sub-custodian or CSD intermediated securities (available securities) in a quantity and of a kind at least equal to, the total of intermediated securities credited to the securities accounts maintained by the bank for its clients[2]. A bank is also subject to strict requirements as to maintenance of accurate books and records and as to reconciliation of its records against those of the CSDs and sub-custodians with which the intermediated securities are held. Accordingly, as long as a bank maintains sufficient holdings of intermediated securities in accordance with its statutory obligations, clients should receive the same level of protection in the bank's insolvency, regardless of whether the intermediated securities are held in an ISA or an OSA. However, ISAs could contribute to swifter identification of client assets in a default scenario.

Nature of clients' interests

Although client's securities are held in the Bank's name at EU CSDs, the Bank holds them on behalf of the Bank's clients.

For securities that are held in an EU CSD, the nature of the entitlement embodied in a security also depends on the law, regulations and contractual framework applicable to such other CSDs and further parties involved in the custody chain. In such a case, entitlements that are available for exclusion may be limited to contractual claims against the CSD involved. Moreover, the ability of the client to exclude securities in the case of insolvency may depend on whether the CSD or any custodian in the custody chain could assert any right to set-off, retention right, security interest or similar right with respect to the securities (see also "Security interests" below).

Shortfalls

As described above, the statutory requirements under Swiss laws are designed to ensure that a Swiss bank holds intermediated securities in a quantity and a kind at least equal to the intermediated securities credited to client accounts. If notwithstanding these requirements there were a shortfall between the number of intermediated securities that a bank is obliged to deliver to clients and the number of intermediated securities that the bank holds on their behalf in either an ISA or an OSA, this could result in fewer intermediated securities than clients are entitled to being returned to them on the bank's insolvency. The way in which a shortfall could arise and would be treated may be different as between ISAs and OSAs.

How a shortfall may arise

A shortfall could arise for a number of reasons including as a result of administrative error, intraday movements or counterparty default. In most cases a shortfall occurs as a result of a mismatch between the time when a bank receives intermediated securities and the earlier time when the delivery is booked to the account of the receiving account holder. In Switzerland, typically for exchange traded transactions, banks credit the client accounts immediately on trade date while the effective delivery may not occur intraday but later (most markets have settlement cycles of 2 or 3 days). As a result, a recipient client could dispose of its intermediated securities as soon as they are credited to its securities account, irrespective of whether the bank has actually already received the intermediated securities. This process is referred to as contractual settlement. Contractual settlement may therefore cause a difference between the bank's number of intermediated securities at the CSD and the clients' higher number of aggregated securities credited to their securities accounts. In the normal course of the settlement this process-immanent difference disappears at the end of the settlement cycle. Contractual settlement increases market liquidity, accelerates deliveries and settlement, and is based on the fact that a failed settlement of an exchange traded transaction (and the risk that, as a result, a bank does not hold sufficient available securities) is rare. The risk involved with shortfalls is further mitigated by the fact that, if a shortfall arises, a bank is obliged to acquire without delay securities if and to the extent the total number of available securities is less than the total number of securities credited to clients' accounts (see below).

In the case of an ISA, the securities held in the ISA can only be delivered out for the settlement of transactions made by the ISA client. As a matter of principle, this may reduce the risk of a shortfall in that account, but also increases the risk of settlement failure which, in turn, may incur additional costs (e.g. buy-in costs) and/or delay in

[2] Available securities also include the bank's readily available rights to delivery of intermediated securities from other custodians during the regulatory or customary settlement period for the corresponding market, provided that this period does not exceed eight days.

settlements.

Treatment of a shortfall

In the case of an ISA, although arguments could be made that the relevant client should not be exposed to a shortfall that is clearly attributable to an account held for another client or clients, it cannot be excluded that a shortfall on any other (ISA or OSA) account would be shared rateably among clients, including clients who do not have an interest in the relevant account[3]. Accordingly, a client holding whose securities are held in an ISA may still be exposed to a shortfall on an account held for another client or clients.

In the case of an OSA, a shortfall attributable to the OSA would be shared rateably among the clients with an interest in the OSA (and potentially other clients). Therefore, a client may be exposed to a shortfall even where securities have been lost in circumstances which are completely unrelated to that client.

If a shortfall arises, the Bank has the obligation under Swiss law to acquire without delay securities if and to the extent the total number of available securities is less than the total number of securities credited to clients' accounts. If a shortfall arose and was not so covered, clients may have a claim for compensation against a Swiss bank. Furthermore, if the securities that may be excluded from the bank's bankruptcy estate (see above) are not sufficient to satisfy the claims relating to client accounts in full, securities of the same kind held by the bank for its own account will also be excluded for the benefit of the relevant clients.

If a Swiss bank 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 a Swiss bank's insolvency, including the risk that they may not be able to recover all or part of any compensation claimed.

In order to calculate clients' shares of any shortfall in respect of an OSA, each client's entitlement to securities held within that account would need to be established as a matter of law and fact based on the bank's books and records. The shortfall would then be allocated among the clients as described above. It may therefore be a time-consuming process to confirm each client's entitlement and establish the securities available for exclusion. This could give rise to delays in returning securities and initial uncertainty for a client as to its actual entitlement on an insolvency.

[3] Cf. Art. 19 FISA.

Security interests

Security interest granted to the CSD

Where the 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 the bank 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 that the bank failed to satisfy its obligations to the 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 that the CSD would first seek recourse to any securities held in the bank's proprietary accounts to satisfy the bank's obligations and only then make use of securities in client accounts. We would also expect the CSD to enforce its security rateably across client accounts held with it. Furthermore, Swiss law requires the liquidator to satisfy claims of the CSD arising out of the custody of intermediated securities or the financing of their acquisition.[4]

Security interest granted to 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, the Bank would expect that the beneficiary of a security interest (pledgee) over a client's securities would perfect its security by notifying the Bank rather than the CSD and would seek to enforce the security against the Bank rather than against the CSD, with which it had no relationship.

3A. Main legal implications of levels of segregation under Singapore law

Singapore Insolvency Proceedings

As a general rule, under Singapore law, even though the Bank is an entity incorporated or formed under the laws of Switzerland, the Singapore court has a discretionary jurisdiction to wind up the Bank if it has a *substantial connection* with Singapore and if:

A. the Bank is dissolved or has ceased to have a place of business in Singapore or has a place of business in Singapore only for the

[4] Cf. Art. 17 para. 3 FISA

purpose of winding up its affairs or has ceased to carry on business in Singapore;

B. the Bank is unable to pay its debts; or

C. the Singapore courts is of opinion that it is just and equitable that the Bank should be wound up.

A Singapore court may rely on the presence of one or more of the following factors to support a determination that the Bank has a substantial connection with Singapore:

(i) the Bank's centre of main interests is located in Singapore;

(ii) the Bank carries on business in Singapore or has a place of business in Singapore;

(iii) the Bank is registered under Division 2 of Part XI of the Companies Act (Cap. 50) of Singapore;

(iv) the Bank has substantial assets in Singapore;

(v) the Bank has chosen Singapore law as the law governing a loan or other transaction, or the law governing the resolution of one or more disputes arising out of or in connection with a loan or other transaction; and

(vi) the Bank has submitted to the jurisdiction of the Singapore courts for the resolution of one or more disputes relating to a loan or other transaction.

In addition, the Bank could also be subject to winding up under the Monetary Authority of Singapore (Cap. 186) of Singapore.

Clients' legal entitlement to the securities that the Bank acting through its Singapore branch holds for them would generally (except in specific circumstances, some of which are discussed below) not be affected by the Bank's insolvency, regardless of whether those securities are held in ISAs or OSAs.

Protection from the Bank's insolvency

Under the laws of Singapore, the customer asset rules as set out in Division 3 (*Customer's Assets*) of Part III of the Securities and Futures (*Licensing and Conduct of Business*) Regulations of Singapore ("**Customer Asset Rules**") may require a bank that receives customer's assets (i.e. securities) to be held on account of the customer to be held in a custody account (with itself or a third party custodian) on trust for the customer and to ensure that such customer's securities are not commingled with any other securities (although it is permissible for customer securities to be commingled with securities of another customer (i.e. OSAs)). Such securities that the Bank holds on trust for the customer do not form part of the insolvent estate of the Bank. The Customer Asset Rules contain strict requirements as to the terms of the custody arrangement, lending and mortgage of customer securities and the withdraw of customer securities.

Accordingly, as long as the Bank maintains sufficient holdings of intermediated securities in accordance with its obligations as a custodian, clients should receive the same level of protection in the Bank's insolvency, regardless of whether the intermediated securities are held in an ISA or an OSA. However, ISAs could contribute to swifter identification of client assets (i.e. securities) in a default scenario.

Shortfalls

As described above, the statutory requirements under Singapore laws are designed to ensure that a bank holds intermediated securities on trust for customers. If notwithstanding these requirements there were a shortfall between the number of intermediated securities that a bank is obliged to deliver to clients and the number of intermediated securities that the bank holds on their behalf in either an ISA or an OSA, this could result in fewer intermediated securities than clients are entitled to being returned to them on the bank's insolvency. The way in which a shortfall could arise and would be treated may be different as between ISAs and OSAs.

See "*How a Shortfall may arise*" above which equally applies here.

Treatment of a shortfall

In the case of an OSA, a shortfall attributable to the OSA would be shared rateably among the clients with an interest 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.

If a shortfall arises, and the Bank does not cover the shortfall, clients may have a claim for compensation against the Bank.

If the Bank 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 the Bank's insolvency, including the risk that they may not be able to recover all or part of any compensation claimed.

In order to calculate clients' shares of any shortfall in respect of an OSA, each client's entitlement to

securities held within that account would need to be established as a matter of law and fact based on the Bank's books and records. The shortfall would then be allocated among the clients as described above. It may therefore be a time-consuming process to confirm each client's entitlement and establish the securities available for allocation among clients in that OSA. This could give rise to delays in returning securities and initial uncertainty for a client as to its actual entitlement on an insolvency.

Security interests

See "*Security interest granted to the CSD*" which equally applies here.

See "*Security interest granted to third party*" which equally applies here.

3B. Main legal implications of levels of segregation under Hong Kong law

Hong Kong Insolvency Proceedings

As a general rule, under Hong Kong law, although the Bank is an entity incorporated or formed under the laws of Switzerland, the Hong Kong courts may order the winding-up of the Bank in Hong Kong if:

A. any of the following grounds (the "**Grounds for Winding-up**") are satisfied:

   i. the Bank is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

   ii. the Bank is unable to pay its debts; or

   iii. the Hong Kong court is of the opinion that it is just and equitable that the Bank should be wound up; and

B. the Bank has a "sufficient relationship" with Hong Kong. As a matter of Hong Kong law, there is no prescriptive list of grounds, the satisfaction of which will be found to demonstrate the existence of a "sufficient relationship" with Hong Kong. However, "sufficient relationship" with Hong Kong is commonly (although not necessarily) demonstrated by the presence of assets within the jurisdiction.

In addition, as the Bank is an "authorized institution" under the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) (the "**Banking Ordinance**"), the Hong Kong courts may, upon a petition from the Financial Secretary of Hong Kong acting in accordance with a direction of the Chief Executive of Hong Kong in Council under section 53(1)(iii) of the Banking Ordinance, order the winding-up of the Bank in Hong Kong if:

A. any of the Grounds for Winding-up are satisfied; and

B. the Hong Kong court is satisfied that it is in the public interest that the Bank should be wound-up.

Treatment of securities held for clients in Hong Kong Insolvency Proceedings

As a matter of Hong Kong law, provided that (a) securities held by the Bank for a client are, pursuant to the terms of an agreement between the Bank and such client, held by the Bank as "custodian" or "trustee" for such client, and (b) the securities can be identified as separate to the Bank's holding of securities, the Bank will be regarded as holding the beneficial entitlement to such securities on trust for such client. Accordingly, if the Bank were to become subject to insolvency proceedings in Hong Kong, such securities would not constitute assets belonging to the bank available for distribution to its creditors.

The commingling of the securities of two or more clients by holding such securities in an OSA should not affect the position described in the paragraph above. However, client securities held in an OSA may be affected by problems arising in relation to custody services provided by the Bank to other clients, for example settlement delays or failures or missing securities.

Securities held by the Bank for a customer may also, in certain circumstances, be subject to the provisions of the Securities and Futures (Client Securities) Rules (Chapter 571H of the Laws of Hong Kong) (the "**Client Securities Rules**"). The Client Securities Rules prescribe that client securities subject to the rules must be either (a) deposited and held in a segregated client securities account with an authorized financial institution, an approved custodian or another intermediary licensed for dealing in securities, or (b) registered in the name of the client on whose behalf the client securities have been received. Client securities held in accordance with the requirements of the Client Securities Rules will not constitute assets belonging to the Bank available for distribution to its creditors in the event that the Bank becomes subject to insolvency proceedings in Hong Kong.

Accordingly, as long as the Bank maintains sufficient holdings of intermediated securities in accordance with its obligations as a custodian,

clients should receive the same level of protection in the Bank's insolvency, regardless of whether the intermediated securities are held in an ISA or an OSA. However, ISAs could contribute to swifter identification of client assets in a default scenario.

Hong Kong resolution proceedings

In addition to Hong Kong insolvency proceedings, the Bank may become subject to special resolution proceedings in Hong Kong under the Financial Institutions (Resolution) Ordinance (Chapter 628 of the Laws of Hong Kong) (the "**FIRO**"). The FIRO provides a regime for the resolution of within scope financial institutions which have ceased, or are likely to cease, to be viable. A resolution authority has wide powers under the FIRO resolution regime to take action in relation to a within scope financial institution including, for example, bailing in liabilities owed by that financial institution or transferring such liabilities to a third party.

However, the objectives to which a resolution authority must have regard in exercising its powers to resolve a within scope financial institution under the FIRO include the protection of client assets of that institution to no less an extent than they would be protected in a winding-up of that financial institution. Further, client assets are expressly excluded from the scope of application of certain of the powers of a resolution authority under the FIRO, including the power to bail in liabilities of a within scope financial institution. Accordingly, provided that client securities of the Bank are held in the manner described under the heading "*Treatment of securities held for clients in Hong Kong Insolvency Proceedings*" above, if the Bank were to become subject to resolution proceedings under the FIRO, such client securities would likely be protected to the same extent that they would be protected if the Bank were to become subject to Hong Kong insolvency proceedings.

Shortfalls

If there were a shortfall between the number of intermediated securities that the Bank is obliged to deliver to clients and the number of intermediated securities that the Bank holds on their behalf in either an ISA or an OSA, this could result in fewer intermediated securities than clients are entitled to being returned to them on the Bank's insolvency. The way in which a shortfall could arise and would be treated may be different as between ISAs and OSAs.

See "*How a Shortfall may arise*" above which equally applies here.

Treatment of a shortfall

In the case of an OSA, a shortfall attributable to the OSA would be shared rateably among the clients with an interest 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.

If a shortfall arises, and the Bank does not cover the shortfall, clients may have a claim for compensation against the Bank.

If the Bank 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 the Bank's insolvency, including the risk that they may not be able to recover all or part of any compensation claimed.

In order to calculate clients' shares of any shortfall in respect of an OSA, each client's entitlement to securities held within that account would need to be established as a matter of law and fact based on the Bank's books and records. The shortfall would then be allocated among the clients as described above. It may therefore be a time-consuming process to confirm each client's entitlement and establish the securities available for allocation among clients in that OSA. This could give rise to delays in returning securities and initial uncertainty for a client as to its actual entitlement on an insolvency.

Security interests

See "*Security interest granted to the CSD*" which equally applies here.

See "*Security interest granted to third party*" which equally applies here.

4. CSD disclosures (not applicable to the Swiss CSD)

Set out below are links to the disclosures made by the CSDs in the EU in which UBS AG is a Participant:

Clearstream Banking S.A. (CBL)

Link will be included as soon as it is available

If you click on those links, you leave this information/website. These disclosures have been provided by the relevant CSDs. The Bank has 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

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

Central Securities Depositories Regulation (CSDR) refers to EU Regulation No 909/2014 on improving securities settlement in the European Union and on central securities depositories, which sets out rules applicable to CSDs and their participants. The CSDR is relevant for the European Economic Area (EEA) and is under scrutiny for incorporation into the EEA Agreement. Upon completion of the adoption process it will also be in force in the EEA.

Federal Act on Banks and Savings Banks (Banking Act or BA), a Swiss law which sets out the financial market legislation governing banks, private bankers and savings banks, dealing, amongst others, with operating licences and specifying rules for business conduct.

Federal Act on Intermediated Securities (FISA), a Swiss law which regulates the custody of certificated and uncertificated securities by custodians and their transfer.

Individual Client Segregated Account (ISA), is used to hold the securities of a single client.

Omnibus Client Segregated Account (OSA), is used to hold the securities of a number of clients on a collective basis.

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.

Graphic representation of OSA and ISA