

ARTICLE 38(6) CSDR PARTICIPANT DISCLOSURE:

JAPANESE LAW

1. Introduction

The purpose of this document is to describe the protection associated with the two different types of segregation that we can provide in respect of securities that we hold for clients with Central Securities Depositories located within the EEA (*European CSDs*), including a description of the main legal implications of the two types of segregation offered and information on the Japanese insolvency law applicable. This disclosure is required under Article 38(6) of the Central Securities Depositories Regulation (*CSDR*).

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

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 discussed in this document.

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 Customer Account (as defined below). To custody cash and securities for clients, we open accounts with European CSDs and other custodians and depositaries (*Segregated Accounts*). We are operationally able to establish two types of Segregated Accounts with European CSDs to custody clients' securities: Individual Client Segregated Accounts (*ISAs*) and Omnibus Client Segregated Accounts (*OSAs*). Proprietary securities cannot be held in ISAs, OSAs, or other Segregated Accounts.

An OSA is used to hold the securities of a number of clients on a collective basis.

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. Although each ISA may be named in a way that identifies the client for whom it is maintained, the client does not have any right or ability to give instructions to the European CSD with respect to any ISA maintained on its behalf or the securities maintained in that account, and so holding assets in an ISA does not give a client any operational rights with respect to those assets. Moreover, the Japanese law does not recognize any special property interest in the assets maintained for a client in an ISA as opposed to an OSA or other Segregated Account.

3. Main legal implications of levels of segregation

Segregation Management Requirement

As a Financial Instruments Business Operator engaged in a Type 1 Financial Instruments Business (*Type 1 Financial Instruments Business Operator*), we are subject to the Financial Instruments and Exchange Act (Act No. 25 of 1948, as amended) (*FIEA*). The FIEA requires us to segregate customer securities from our own assets through a method prescribed in the FIEA (*segregation management requirements*). We continue to

comply with the segregation management requirements.

Insolvency

Were we to become insolvent, our insolvency proceedings would take place in Japan and be governed by Japanese insolvency law.

Under Japanese insolvency law, once the insolvency proceeding is commenced, various restrictions are imposed upon the rights and interests of creditors, lien holders, equity holders, and other parties. However, an owner of a property that is held by the bankruptcy trustee (or other similar body in other insolvency procedures in Japan) as a part of the bankruptcy estate (or other similar estate in other insolvency procedures in Japan) may make a claim for return of the property as long as such property is specified. The generally accepted position in Japan is that in the case of securities which are subject to the book-entry system, they have specification when the "Customer Account" (an account where the rights held by the customers are recorded) is segregated from the Proprietary Account (an account where the rights held by the broker-dealer are recorded) in accordance with the segregation management requirements, as is the case with the treatment of Japan Securities Depository Center, Inc. regardless of whether the Customer Account takes the form of ISA or OSA.

As described above, in our case, proprietary securities cannot be held in ISAs, OSAs or other Segregated Accounts, and therefore the Customer Account is segregated from the Proprietary Account.

Accordingly, even if we become insolvent, in principle this will have no effect on customer securities held in the Customer Account regardless of whether it takes the form of ISA or OSA. A customer, as an owner of securities, may make a claim for the return of the securities.

However, if there is a shortage in customer assets which we actually hold a separate examination will be necessary. For the amount of the shortage, regardless of whether the Customer Account takes the form of an ISA or OSA, a customer may not make a claim for the return of securities themselves equivalent to the amount of such shortage outside insolvency proceedings. Therefore, the customer would have to exercise its own rights with respect to such shortage in accordance with insolvency proceedings.

If there is a shortage in customer assets which we actually hold and the Customer Account takes the form of an OSA, even though the record of books of customer's rights is accurate, the customer's rights could be reduced in proportion to a shortage in records of books of other customers. Meanwhile, if the Customer Account takes the form of an ISA, a shortage in records of books of other customers will not reduce the customer's rights in proportion. However, if there is a shortage in the book of the customer, the customer's rights will be reduced by the amount of such shortage.

Deposit Insurance Act

As a Type 1 Financial Instruments Business Operator, we are covered by the following Specified Measures Item (i) and (ii) under the Deposit Insurance Act of Japan (Act No. 34 of 1971, as amended) (*DIA*). Under the *DIA*, the Prime Minister may, following deliberations by the Financial System Management Council, authorize the implementation of the measures if he finds that, if the following measures are not taken, it

may lead to the extreme disruption of the financial market of Japan or other financial systems. Depending on the financial situation of the relevant financial institutions, two different types of measures, as indicated below, may be taken.

(1) Measures for financial institutions that are not capital deficit (***Specified Measures Item (i)***)

Specified Measures Item (i) include: (i) special supervision (in which the Deposit Insurance Corporation (***DIC***) or an agency of the DIC supervises the conduct of business and the management and disposition of assets by the failed financial institution); and (ii) the provision of loans and the subscription for shares by the DIC.

(2) Measures for financial institutions that are capital deficit or possibly capital deficit (***Specified Measures Item (ii)***)

Specified Measures Item (ii) include: (i) special supervision (as referred to in (1)); and (ii) financial assistance by the DIC for the resolution of a failed financial institution, such as a business transfer or merger of a failed financial institution to another financial institution. Additionally, certain special administration measures (including a complete transfer of rights to permit the DIC to conduct the failed financial institution's business and management and dispositions of the assets therein) can be taken in more severe cases.

Japan Investor Protection Fund

Regardless of the segregation managements requirements, in the event that an insolvent Type 1 Financial Instruments Business Operator cannot smoothly return customer securities for some reason such as violation of segregation management requirements, Japan Investor Protection Fund (*nihon toushisha hogo kikin*) (***JIPF***) pays compensation for unreturned money and securities which fall within "Customer Assets" (*kokyaku shisan*) up to JPY 10 million per "general customer" (*ippan kokyaku*). With respect to the assets deposited from customers whose amount exceeds JPY 10 million, customers, as general creditors, are prohibited from enforcing their rights to return of this portion outside of the relevant insolvency proceedings, and need to exercise their rights in accordance with the relevant insolvency proceedings.

If you are uncertain whether you would be a "general customer" or whether your assets fall within "Customer Assets" for the purposes of the FIEA, please seek your own legal advice.

4. CSD Disclosures

Certain disclosures prepared by CSDs can be found on the European Central Securities Depositories Association (ECSDA) website.

We have not investigated or performed due diligence on the disclosures and clients rely on the CSD disclosures at their own risk.

GLOSSARY

Central Securities Depository or ***European CSD*** is an entity based in the EEA which records legal entitlements to dematerialised securities and operates a system for the settlement of transactions in those securities. The great majority of securities issued in the EEA that we hold for clients are held with Central Securities Depositories.

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

direct participant means an entity that holds securities in an account with a European CSD and is responsible for settling transactions in securities that take place within a European 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 European CSD.