



## DISCLOSURE TO CLIENTS PURSUANT TO ARTICLE 38(6) OF THE CENTRAL SECURITIES DEPOSITORIES REGULATION

### Section 1: Segregation

#### 1. Introduction

This document is to disclose the levels of protection associated with the different levels of segregation that we (see glossary) provide in respect of securities that we hold for clients with Central Securities Depositories within the EEA ("CSDs", see glossary). This includes a description of the main legal implications of the respective levels of segregation offered and information on the applicable insolvency law.

This disclosure is required under Article 38(6) of the Central Securities Depositories Regulation ("CSDR", see glossary) which relates to CSDs in the EEA.

CSDR also places disclosure obligations on the CSDs with which we hold securities.

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 discussed in this document.

Nothing in this document should be construed to override any terms of the custody agreement which we have in place with the client (as amended or supplemented from time to time).

#### 2. Background

We record each client's individual entitlement to the securities that we hold for that client in (one or more) securities accounts established for that client, in our own books and records, pursuant to the terms of the custody agreement between the client and us. We also open accounts with the CSDs in our own name in which we hold clients' securities.

Currently, we offer two types of accounts with the CSDs to our clients. These are Individual Client Segregated Accounts ("ISAs") and Omnibus Client Segregated Accounts ("OSAs").

An ISA is used by us to hold the securities of a single client and therefore the client's securities are held by us in a CSD account which is separate from accounts used to hold the securities of other clients and accounts used to hold our own proprietary securities.

An OSA is used by us to hold the securities of a number of clients on a collective basis. However, we do not hold our own proprietary securities in OSAs.

#### 3. Main legal implications of levels of segregation

##### Our Insolvency

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

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



## Application of Irish insolvency law

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



## 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 than clients are entitled to being returned to them on our insolvency. There would be a difference in the way in which such a shortfall could arise, 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.

Where we have been requested to settle a transaction for a client and that client has insufficient securities held with us to carry out that settlement, in the case of both an ISA and an OSA, we only carry out the settlement once the client has delivered to us the securities needed to meet the settlement obligation.

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 its obligation to reimburse the OSA for the securities used or borrowed.

### *Treatment of a shortfall*

In the case of an ISA, the whole of any shortfall on the relevant account 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 with an interest in the OSA, in accordance with the amounts of their respective interests. Therefore, it is possible that 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 arose for which we are liable to the client, the client may 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 may not be able to recover all or part of any amounts claimed.

In these circumstances, clients could be exposed to the risk of loss on our insolvency. If securities were held in an ISA, the entire loss would be borne by the client for whom the relevant account was held. If securities were held in an OSA, the loss would be allocated between the clients with an interest in that account





We are also required by Article 38(6) of CSDR to disclose the costs that are associated with the different levels of segregation we offer, as described in Section 1 of this document.

## 2. Costs

As noted in Section 1, we offer our clients ISAs or OSAs, in respect of securities we hold for clients with CSDs. There are fundamental differences between ISAs and OSAs and as a result, the costs associated with each will vary.

In general, an ISA will be more expensive than an OSA. The main reason for this is that, operationally, ISAs are more expensive than OSAs for us to open and maintain at a CSD. OSAs afford a greater level of operational efficiency than ISAs. For example, operating an ISA structure will require us to open and maintain multiple ISAs, which may incur higher charges at the CSD and from any other third parties involved. This is in contrast to an OSA arrangement which would enable us to use one account for a number of different clients.

Without prejudice to the foregoing in this paragraph, please note that it is not possible for us to provide specific information regarding costs in this document. Client specific pricing structures for both ISAs and OSAs will depend on a variety of factors and will be calculated on a case-by-case basis. Please contact your usual Relationship Manager if you would like to discuss this further.



## GLOSSARY

“bail-in” refers to the process under the European Union (Bank Recovery and Resolution) Regulations 2015 (as amended) to failing Irish 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” or “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” or “CSDR” refers to EU Regulation 909/2014 which sets out rules applicable to CSDs and their participants.

“EEA” means the European Economic Area.

“resolution proceedings” are proceedings for the resolution of failing Irish banks and investment firms under the European Union (Bank Recovery and Resolution) Regulations 2015 (as amended).

“we” or “us” refers to Elavon Financial Services DAC and our UK Branch.

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