

## **Disclosure to Bundesbank clients pursuant to Article 38 (5) and (6) of Regulation (EU) No 909/2014 (Central Securities Depositories Regulation, CSDR)**

### **1 Introduction**

Pursuant to Article 38 (5) and (6) of the CSDR, the Bundesbank, as a participant of the central securities depositories (CSD) Clearstream Banking AG (CBF) and Clearstream Banking S.A. (CBL), is obliged to offer its clients the choice between omnibus client segregation and individual client segregation and to inform them of the costs and risks associated with each option.

The Bundesbank fulfils this obligation by publishing this document, which aims to provide depositors at the Bundesbank with an overview of the client segregation models and the related legal consequences. The information contained in this document does not constitute legal advice. For more information, please refer to Clearstream's website.<sup>1</sup>

### **2 Background**

The Bundesbank operates securities accounts for its depositors and holds the securities deposited by depositors in custody at the central securities depositories CBF and CBL in what are known as omnibus securities accounts.<sup>2</sup> This means that all the securities deposited with the Bundesbank are held collectively at CBF or CBL in securities accounts opened in the Bundesbank's name (omnibus client segregation). CBF and CBL are aware that the securities held in custody in these securities accounts are the holdings of different Bundesbank clients, i.e. that the Bundesbank has no ownership rights to these holdings.

The CSDR requires the Bundesbank to offer its clients the option of opening a segregated securities account with CBF and CBL, in which only a single client's holdings are kept in a securities account opened in the Bundesbank's name (individual client segregation). Clients who select this option do not become contractual partners of the CSD; their holdings are merely segregated from those of other Bundesbank clients in the CSD's accounts.

### **3 Description of the level of protection/risks**

As required under the German Safe Custody Act (*Depotgesetz*), the Bundesbank maintains an omnibus securities account with CBF and CBL for keeping securities in safe custody and for settling securities transactions. The securities holdings of all the Bundesbank's clients are held collectively in this securities account. The legal requirements ensure comprehensive protection of client assets. The omnibus securities account is operated as a third-party securities account, which means that the securities kept therein are not liable for liabilities of the Bundesbank. If the institution holding the securities account becomes insolvent, the client would be entitled – independently of other Bundesbank clients – to demand the transfer of their securities holdings to a securities account at a different bank (the “right to separation” pursuant to the German Insolvency Code (*Insolvenzordnung*)).

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<sup>1</sup> <https://www.clearstream.com/clearstream-en/strategy-and-initiatives/asset-safety/csdr-article-38-disclosure>

<sup>2</sup> This does not include the safe custody of physical certificates in individual safe custody, or safe custody under the correspondent central banking model where the Bundesbank acts as the home central bank.

As an alternative, the client can submit a request to the Bundesbank asking it to set up a separate securities account for their securities holdings at the respective CSD and have them held separately there from the holdings of other clients (an arrangement known as “individual client segregation”). Here, too, the client would be able to assert the same right of separation as in an omnibus securities account arrangement, should the institution holding the securities account become insolvent.

#### **4 Costs**

The costs for operating securities accounts are specified in the Bundesbank’s current price schedule as amended from time to time.

If a client opts for individual client segregation rather than omnibus client segregation, the resulting additional fees charged by the central securities depository will be passed on to the client. These fees are specified in Clearstream Banking’s fee schedule.<sup>3</sup> Note here that the different types of safe custody (non-collective safe custody and collective safe custody) require different securities settlement systems. Should the client choose individual client segregation, it may be necessary to open several segregated securities accounts for one customer.

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<sup>3</sup> <https://www.clearstream.com/clearstream-en/keydocuments-1-/csd-1-/fee-schedule/clearstream-banking-fee-schedule-1577174>