

Article 38 (5) (6) Central Securities Depositories Regulation (CSDR)
Direct Participant Disclosure: BNP Paribas Securities Services Milan branch –
Succursale
Disclosure Letter – Italy

1. INTRODUCTION

This document describes the level of protection associated with the two types of segregation accounts that BNP Paribas Securities Services provides in respect of securities it holds on behalf of its clients with Monte Titoli S.p.A. (the “CSD” or “**Monte Titoli**”), including a description of the main legal implications of these two types of segregation accounts as well as of the applicable insolvency rules.

Disclosure of the information contained in this document is required under Article 38 (5) and (6) of the Central Securities Depositories Regulation EU 909/2014 (“CSDR”). BNP Paribas Securities Services is subject to these disclosure obligations in its capacity as a Direct Participant (see glossary below) of the CSD. The CSD has its own disclosure obligations under the CSDR.

Capitalised terms not otherwise defined in the text shall have the meanings given to them in the glossary at the end of this document.

2. BACKGROUND

BNP Paribas Securities Services holds the securities of its clients in custody through separate client accounts in its books and records. BNP Paribas Securities Services is required to segregate in its books the securities of each of its clients as well as to segregate its own proprietary securities from those it holds on behalf of its clients.

BNP must always be able to reconstruct with certainty, at any time, the position of each client.

BNP Paribas Securities Services also opens securities accounts at the level of the CSD and ensures that its clients’ securities are segregated from BNP Paribas Securities Services’ own securities in the books of the CSD, irrespective of the type of accounts described below. CSDs are not permitted to commingle their own assets with securities of their Direct Participants.

The CSD shall keep records and accounts that shall enable it, at any time and without delay, to segregate in the accounts with the CSD, the securities of a participant from those of any other participant and, if applicable, from the CSD’s own assets.

The CSD shall keep records and accounts that enable any participant to segregate the securities of the participant from those of the participant’s clients.

The CSD shall keep records and accounts that enable any participant to hold in one securities account the securities that belong to different clients of such participant (“*omnibus client segregation*”).

The CSD shall keep records and accounts that enable any participant to segregate the securities of any of the participant's clients, if and as required by the participant ("*individual client segregation*").

Therefore, according to the above, the CSD offers to its Direct Participants (*i.e.* BNP Paribas Securities Servicers) the following kinds of accounts:

- Proprietary accounts: aimed at recording the financial instruments owned by the Direct Participant. The proprietary account is opened in the name and upon request of the Direct Participant;
- Third parties accounts: aimed at recording financial instruments that the Direct Participant holds on behalf of its clients. These accounts could be used:
 - to record financial instruments belonging to different clients of the Direct Participant *i.e.* "omnibus client segregation - *segregazione omnibus*";
 - to record asset pertaining to a single client of the Direct Participant *i.e.* "individual client segregation - *segregazione per singolo cliente*".

Therefore, in the light of the above, BNP Paribas Securities Services is operationally able to establish two types of client securities accounts with the CSD:

- Individual Client Segregated Account or "individual client segregation - *segregazione per singolo cliente*" ("ISA"); and
- Omnibus Client Segregated Account or "omnibus client segregation - *segregazione omnibus*" ("OSA").

According to the above:

- an OSA is used to hold the securities of a number of clients of BNP Paribas Securities Services on a collective basis;
- an ISA is used to hold the securities of one single client of BNP Paribas Securities Services, and the securities of that single client are held separately from the securities of the other clients of BNP Paribas Securities Services.

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 to give instructions directly to the CSD with respect to that ISA and holding securities through an ISA does not grant a client with any operational rights with respect to that ISA.

In principle, there is no specific obligation to disclose the identity of the client of the Direct Participant to the CSD, since the participation to the centralised management and settlement service ("*servizio di gestione accentrata e di regolamento*") is in the name of the Direct Participant, even if the same acts on behalf of third parties and, therefore, the effects of the relationship with Monte Titoli are always produced on the Direct Participant.

For more information on ISAs and OSAs and their respective costs, please click on the following link:<https://securities.bnpparibas.com/about-us/regulatory-publications/csdr.html>

3. MONTE TITOLI S.P.A.

3.1 Legal rules regarding securities' ownership

Monte Titoli is a company established and incorporated under Italian law. Its centralised management and settlement system (*sistema di gestione accentrata e di regolamento*), as well as the contractual relationship with its participants, are governed by Italian law. According to the provisions on conflict of laws, when rights on securities are evidenced by book entries or records in a register, account, or central depository system, the law governing the right on securities is the law of the jurisdiction in which it is located the book entries, account or central deposit system in which the book entries or annotation are executed directly in favor of the party entitled to benefit from the transfer of rights.

According to the above, with regard to securities accounts held by the Direct Participant with Monte Titoli, the rights on securities held with Monte Titoli are governed by the Italian law.

Similarly, in rem rights (e.g. property rights) with respect to securities held by the holder of an account with an Italian intermediary are governed by the Italian law.

Rights on securities are regulated at the level of the relationship between the account holder and the intermediary. The relationship between the account holder and the intermediary is qualified as “custody account/*deposito*” under Italian law.

In principle, in the context of this relationship, when securities are deposited with a bank, the ownership remains with the account holder (*i.e.* client or investor), who is entitled to ask for the “restitution” (see below) of the securities held on its account. The bank merely carries out custody services on behalf of its client without acquiring any rights over such securities.

In case of dematerialized securities, the opening of a custody account with an intermediary is mandated by law. The physical “restitution” (in paper form) of the securities by the intermediary is not possible. The “restitution” is therefore equivalent to the crediting of the relevant securities to a different securities account held with another intermediary.

As a general remark, the intermediary may be a direct participant in the CSD or may participate through one or more intermediaries in the chain of custody. However, the account holder has a contractual relationship only with the intermediary with which he holds his securities account, not also with any intermediaries present at a higher level in the chain of custody, nor with the CSD.

In this respect, please note that BNP Paribas Securities Services is a Direct Participant with the CSD. Therefore, the account holders (*i.e.* the clients or investors) have a contractual relationship only with BNP Paribas Securities Services and not with the CSD.

Consequently, the account holders' right to request any "restitution" of securities, as described above, can be enforced only against BNP Paribas Securities Services that has a direct contractual relationship with the account holder, not against the CSD.

In principle, securities issued in Italy are represented by physical titles or by book entry ("*forma scritturale*") as described below.

Notably, securities regulated by Italian law admitted to trading or traded at an Italian trading venue or at that of another European Union country with the issuer's consent can exist only in "book-entry form" ("*forma scritturale*"). Such requirement can be fulfilled by direct or dematerialized (book-entry) issuance, through Monte Titoli S.p.A., or through a central securities depository authorized to operate services in Italy pursuant to the freedom to provide services principles under Article 23 of Regulation (EU) no. 909/2014.

Securities other than those above mentioned: (i) shall (for those securities identified by the joint regulation issued by Bank of Italy and Consob on August 13, 2018); (ii) may, on a voluntary basis (therefore for all other kinds of securities), be admitted to the central depository in dematerialized form.

The CSD does not acquire any right on the securities recorded in the form of an accounting entry with it. The CSD may not use for any purpose securities that do not belong to it. The CSD may however use securities of a participant where it has obtained that participant's prior express consent. The CSD shall require its participants to obtain any necessary prior consent from their clients. Under the current regulatory and contractual framework, Monte Titoli is not authorized to use the securities of participants for any purpose. Therefore, no consent has been requested/acquired for this purpose.

According to Italian law, transfer of the above mentioned securities and exercise of related property rights may only be performed through intermediaries such as BNP Paribas Securities Services.

The following legal effects arise from a credit book entry of securities on a secured account opened with an intermediary:

- once registration on a securities account opened with an intermediary has occurred, the account holder has the full and exclusive title to exercise any rights connected to the securities registered therein, including in connection with their transfer or disposal, in accordance with relevant rules and regulations;
- the account holder may not be subject to claims or actions by previous holders of financial instruments, provided that the rights have been acquired with valid title and in good faith.

Intermediaries, who are appointed to perform such service, register the securities pertaining to each account holder, as well as any transfers, the rights exercised and liens, in accordance with the instructions of the account holders or on their behalf, in separate and distinct accounts, both from each other and from any account pertaining to the intermediary. Registration of securities transfers on securities accounts is performed by the intermediary further to settlement of the related transaction.

As additional measure provided for by the CSDR, together with the security protection measures, Monte Titoli has to carry out the daily reconciliation of the account balances and sends the relevant account statement to the Participants. Participants are entitled to disagree with the account statement within one day. After this term, the statement of account shall be deemed to have been approved. The CSD shall ensure that, upon its request, its participants, other holders of accounts with the CSD and the account operators supply the CSD with the information that the CSD deems necessary to ensure the integrity of the issuance, in particular to solve any reconciliation problems. The CSD shall analyse any mismatches and inconsistencies resulting from the reconciliation process and endeavor to solve them before the beginning of settlement on the following business day.

3.2 Insolvency

As above said, Italian law provides for segregation rules applicable to intermediaries, aimed at protecting the assets held by them on behalf of their clients in the event of the insolvency of the intermediary itself (or of any intermediary of a higher level). According to these rules, the intermediary is required to maintain full segregation of the securities of its clients from its own securities and segregation must be evidenced in the accounting records of the intermediary.

Moreover, the Intermediary shall record, for each account holder, the financial instruments held, their transfer, the rights exercised and any restrictions in separate accounts, separated from each other and with respect to any of the relevant accounts of the Intermediary itself.

Notably:

- with regard to the provision of investment and ancillary services (*prestazione dei servizi di investimento ed accessori*)¹, financial instruments of each client, in whatever capacity held by investment firms and banks, constitute assets separate in all respects from that of the intermediary and that of other clients. No claims/actions may be carried out on such assets by the creditors of the intermediary, or by the creditors of the custodian or sub-custodian, if any;
- with regard to collective management of savings (*gestione collettiva del risparmio*), the law in force² provides for segregation rules in respect of securities belonging to investment funds. This provision states that each investment fund represents an autonomous asset (*patrimonio autonomo*), separate in all respects from that of the management company and that of each participant in the funds, as well as from any other asset managed by the same management company. No claims/actions may be carried out on such assets by creditors of the management company or in the interest of the

¹ See Article 22 of the Legislative Decree no. 58 of February 24, 1998 (“Consolidated Law on Finance”).

² See Article 36, paragraph 4 of the Consolidated Law on Finance.

same management company, or by creditors of the custodian or sub-custodian, or in their own interest.

In the light of the above, intermediaries must hold securities belonging to clients with any sub-custodian in one or more accounts opened in their own name, with an indication that the securities belong to third parties.

These accounts must also be segregated from the intermediaries' account.

The application of the aforementioned segregation provisions, jointly with the segregation provisions set forth to in Article 38 of the CSDR, prohibits, without exception:

- creditors and the liquidator (*commissario liquidatore*) of the intermediary to make claims of any kind against the “sub-custodian” on securities belonging to the clients of the intermediaries, and
- creditors and the liquidator (*commissario liquidatore*) of the CSDs to exercise any action or foreclosure on the same securities.

3.2.1 *Insolvency of Monte Titoli S.p.A.*

If serious irregularities have been detected, the Ministry of Economy and Finance, upon proposal of CONSOB or of the Bank of Italy, may revoke the governing bodies of Monte Titoli S.p.A., with a decree published on the Official Journal of the Italian Republic. Such decree will appoint one or more special commissioners to administer the CSD, and will determine their fees, which will be borne by the CSD.³

If (i) Monte Titoli S.p.A is declared to be in a state of insolvency pursuant to Article 195 of the Italian bankruptcy law, or (ii) its authorization has been withdrawn, the Ministry of Economy and Finance issues a decree ordering compulsory administrative liquidation (“*liquidazione coatta amministrativa*”).⁴

Once insolvency proceedings are opened towards the CSD, the securities held in its books should remain isolated and should not be claimed by its creditors, since Monte Titoli S.p.A. does not have any ownership rights over the securities it holds.

³ See Article 79-*vicies*, paragraph 1 of the Consolidated Financial Law.

⁴ The cases of withdrawal of authorisation are provided for by art. 20 of CSDR, which includes also the cases where the CSD no longer complies with the conditions under which authorisation was granted or has seriously or systematically infringed the requirements laid down for the authorisation.

Notably, the CSD shall establish, implement and maintain adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event of a withdrawal of authorization.

Even if in principle and in theory the provisions set forth in Article 91 (with the exception of paragraphs 1-*bis* and 11-*bis*) of the Legislative Decree No. 385/1993 might apply⁵, in any case, it is reasonable to state, that –irrespective of whether the *liquidazione coatta amministrativa* is triggered by the insolvency of the CSD⁶ or by the withdrawal of its authorization⁷ – the transfer of the asset of clients and participants to another CSD will be carried out by the liquidator (*commissario*) appointed to manage the procedure of *liquidazione coatta amministrativa*.

In this scenario, it should be pointed out that, in the event of insolvency of the CSD or withdrawal of authorisation to the CSD, the above transfer of the assets will concern both the assets subject to OSA and the assets subject to ISA.

Therefore, in case of insolvency of Monte Titoli, the fact that securities are held through an ISA opened in the books of Monte Titoli S.p.A. on behalf of a particular client of BNP Paribas Securities Services does not grant such client more protection than in the case of clients who hold their securities through an OSA.

3.2.2 *Insolvency of BNP Paribas Securities Services*

The main risk assumed by clients of an ISA or OSA account is if BNP Paribas Securities Services fails to comply with its obligations as a Direct Participant of Monte Titoli or is declared insolvent.

As the centre of main interest of BNP Paribas Securities Services is in France, as general remark, French rules and regulations govern its insolvency proceedings. Therefore, a possible insolvency procedure of BNP Paribas Securities Services would be initiated and controlled by the relevant European banking authorities⁸ and the *Autorité de contrôle prudentiel et de résolution*.

⁵ Article 91 (with the exception of paragraphs 1-*bis* and 11-*bis*) of the legislative decree No. 385/1993 sets forth the provisions with regard to return of the assets (*restituzione di beni e strumenti finanziari*) and allocation of the liquidated assets (*ripartizione dell'attivo liquidato*) and envisage for specific provisions in the event that (i) the segregation of the assets of the direct Participants among them does not result respected or the securities are not sufficient for all distributions; (ii) the segregation of the assets of the CSD from that of the Participants does not result respected (see under previous paragraph 3.2.2 points 2) and 3)).

If Monte Titoli is submitted to an insolvency proceedings and there is a mismatch between the books and records of Monte Titoli and those of an intermediary (such as BNP Paribas Securities Services) which results in a shortfall of securities, theoretically, Participants might share such shortfall in proportion to their holdings with Monte Titoli. This if the CSD does not transfer to another CSD (or will not “return” to BNP Paribas Securities Services) the total amount of securities otherwise resulting from the Participant’s records.

⁶ See Article 79 *vicies*, paragraph 2 of the Consolidated Financial Law.

⁷ See art. 20, paragraph 5 of CSDR.

⁸ European Central Bank, the Single Resolution Board and the National Competent Authorities,

A decision to open winding-up proceedings taken by the administrative or judicial authority of the home Member State (France) shall be recognised, without further formality, within the territory of all other Member States (*inter alia*, Italy) and shall be effective there when the decision is effective in the Member State (France) in which the proceedings are opened.

The administrative or judicial authorities of the home Member State (France) shall without delay inform, by any available means, the competent authorities of the host Member State (*inter alia*, Italy) of their decision to open winding-up proceedings, including the practical effects which such proceedings may have, if possible before they open or otherwise immediately thereafter. Information shall be communicated by the competent authorities of the home Member State.

BNP Paribas Securities Services' clients' securities cannot be claimed by BNP Paribas Securities Services' own creditors and can only be claimed by the clients of BNP Paribas Securities Services recognized as owners of such securities. Accordingly, in case of a potential insolvency event affecting BNP Paribas Securities Services, the fact that securities are held through an ISA does not give that client more protection than in the case of clients who hold their securities through an OSA.

However, the enforcement of proprietary rights over financial instruments or other rights in such instruments, the existence or transfer of which are evidenced through records kept in a register, an account or a centralized deposit system held or located in an European Union member state ("**Member State**") are governed by the law of the Member State where the register, account, or centralized deposit system in which such rights are recorded is held or located. Therefore, when financial instruments are recorded in a register, an account or a centralized deposit system held or located in Italy (such as Monte Titoli S.p.A.), Italian provisions govern the exercise of property rights over the securities.

Without prejudice to the afore said, if the Bank of Italy deems that it is necessary to apply in Italy a resolution measure (*provvedimento di risanamento*) against an EU bank, it will submit the request to the competent supervisory authority or, if different, to the authority for resolution of the home state or to the European Central Bank.

Furthermore, the Bank of Italy can, with respect to activities performed locally, take measures to protect investors in case of "crisis"⁹ of an EU bank with branches in Italy. The measures (that may be temporary) may include, *inter alia*, prohibition of new transaction, suspension of payments, in certain case the close of the branch (the measures are notified, *inter alia*, to the competent supervisory of the home member State, to the UE Commission and to EBA).

However, in case of insolvency of an Italian branch (*succursale*) of an intermediary located in a Member State the following provisions apply, disregard whether at CSD level the securities

⁹ *Inter alia*, infringement of provisions relating to branches, infringement of provisions relating to the liquidity of the EU bank or deterioration of the bank's liquidity situation, infringement of the provisions relating to activity of the branch under the Bank of Italy control.

are held through an ISA or an OSA. Therefore, both mentioned kinds of segregation seem to be equivalent in terms of asset protection in case of insolvency of an intermediary.

In the event an insolvency procedure is started clients have, in principle, the right to “receive back” their securities from the intermediary (see above for dematerialized securities). For this purpose, the clients are registered in a special separate section of the intermediary’s statement of liabilities (*sezione separata dello stato passivo dell’intermediario*).

Depending on whether the segregation rules have been complied with by the Intermediary, the following provisions apply:

- 1) if segregation rules (*i.e.* segregation of the securities of each client from the securities belonging to the intermediary and segregation of the securities of the relevant client from securities of the other clients) have been properly and fully complied with by the intermediary and the securities are enough, the client can enforce its right to obtain that its securities are “returned” to it;
- 2) in the event that the securities belonging to the client have been segregated from the securities belonging to the intermediary, but have been commingled with securities of other clients, or if the segregated securities are nonetheless not enough to effect full “restitution”, each client shall have the right (*i*) to “receive back” securities on a pro-rata basis with other clients, in proportion to the rights for which each client has been admitted to the separate section of the statement of liabilities (*sezione separata dello stato passivo*); or (*ii*) to the distribution of the proceeds deriving from the liquidation of the financial instruments pertaining to the clients, in the same proportion as indicated in previous point (i);
- 3) in the event that the securities belonging to the client have been commingled with the securities belonging to the intermediary, the client has only an unsecured claim against the intermediary, ranking *pari-passu* with the other unsecured claims. This provision applies also in case in which the segregation implemented under previous point 2) grants for partial restitutions only. In this latter case, clients are entitled to claim against the intermediary for such portion of the rights that has not been satisfied pursuant to previous point 2).

Furthermore, for the sake of completeness, it should be noted that (although they do not have a direct impact on the securities of clients) in order to protect the liquidation system, the CSD applies a series of provisions deriving from secondary regulations.

In this respect, *inter alia*, Participants submitted to an insolvency procedure are excluded from the service of liquidation by the CDS.

Therefore, CSD will not accept any transfer order from a Direct Participant in respect of which an insolvency proceeding has been initiated, once said initiation has been known by the CSD. Notably, in case where an insolvency procedure is started against a Participant (or against an Indirect Participant) Monte Titoli promptly activates the operational procedures set forth in the

instructions¹⁰ with the aim of managing the settlement instructions attributable to the insolvent entity.

These procedures include (*inter alia*):

- a) in the case of an insolvent Participant, the cessation: i) of the acquisition of new settlement instructions in the Settlement System given by the insolvent Participant; and ii) of amendments to settlement instructions already in the Settlement System given by the same Participant;
- b) the cancellation from the Settlement System of the intra-CSD settlement instructions attributable to the insolvent Participant in accordance with the procedure and deadlines set forth in the Instructions; and
- c) the suspension of the liquidation (hold) in the Settlement System of the cross-CSD settlement instructions attributable to the insolvent Participant according to the procedure and the deadlines set forth in the Instructions.

Insolvency procedures referred to in above shall take into account the coordination of the moments of finality and irrevocability of transfer orders of securities and cash.

3.3 Shortfall

In order to protect the liquidation system, if - during a daily reconciliation activities over accounts (*quadratura dei conti*) between the books and records of Monte Titoli and the books and records of each intermediary (such as BNP Paribas Securities Services) - a discrepancy arise, which results in a shortfall of securities, this discrepancy will be settled according to Monte Titoli's Regulation of January 1, 2019 and the related Instructions dated August 5, 2019 (as amended or replaced from time to time). Notably, Monte Titoli may suspend the securities concerned by the operations of the CSD Service and of the Settlement Service until proper realignment of the accounting balances. For the purpose of suspension the securities see the above mentioned Instructions dated August 5, 2019 (as amended or replaced from time to time).

With regard to Monte Titoli insolvency proceedings see under paragraph 3.2.1.

This Participant Disclosure document is dated 23 December, 2019.

¹⁰ The regulation is provided for by:

- Article 2 and ff of the Legislative Decree no. 210 of 12 April 2001;
- article 22 of "Operating rules for Settlement Services and related activities" (*Regolamento Operativo del Servizio di Liquidazione e delle attività connesse e strumentali*) issued by Monte Titoli on September 21, 2018;
- Instructions to Settlement Service, and related instrumental activities (*Istruzioni del Servizio di Liquidazione e delle attività connesse e strumentali*) issued by Monte Titoli on May 20, 2019 (as amended or replaced from time to time).

GLOSSARY

Central Securities Depository (CSD) is an entity which operates a securities settlement system and provides at least one other core service listed in Section A of the Annex of the CSDR.

Central Securities Depositories Regulation or CSDR refers to Regulation (EU) 909/2014 of the European Parliament and of the Council dated 23 July 2014 on improving securities settlement in the European Union and on central securities depositories.

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.

Indirect Participant means an entity, such as a global custodian, which appoints a Direct Participant to hold securities for it with a CSD.

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, as applicable, a Direct Participant or an Indirect Participant.

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