BANCA NAŢIONALĂ A ROMÂNIEI

Disclosure of information on the levels of protection and costs associated with the different levels of segregation of the accounts of financial instruments with SaFIR[1]

[1] Published based on provisions of art. 38 para. 6 of *Regulation (EU) no. 909/2014 of the European Parliament and of the Council on improving the settlement of securities in the European Union and on central securities deposits and amending Directives 98/26 / EC and 2014/65/EU* and *Regulation (EU) no. 236/2012*.

1. Levels of segregation of acounts with SaFIR system

1.1. General information

Pursuant to Art. 29 Par. 2 letter (b) of *Law No. 312/2004 on NBR Statute*, as well as to the conventions concluded with the Ministry of Public Finance, the National Bank of Romania (NBR) operates the financial instruments depository and settlement system SaFIR, acting as Central Securities Depository for the government securities issued on the interbank market, the certificates of deposit issued by the National Bank of Romania and other fixed income financial instruments set by National Bank of Romania's Board and must comply with the requirements of *Regulation (EU) 909/2014 of the European Parliament and of the Council on improving the settlement of securities in European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU* and *Regulation (EU) no. 236/2012* (hereinafter referred to as CSDR).

The purpose of the current document is to describe the levels of protection associated with the types of accounts that can be opened with SaFIR system and the various levels of segregation, and the data provided herein is for informative purposes alone, while for any further information the applicable legal framework should be consulted[2].

The SaFIR system provides the participants with the functionality of individual segregation of their own clients' accounts and keeps records that allow, at any time and without delay, to separate the financial instruments of one participant from any other's, in the accounts opened with the SaFIR system.

Each participant in the system has the obligation to separately register its own financial instruments from its customers'. In accordance with the selection indicated to the system administrator, the participants to the SaFIR system have the possibility to separately register financial instruments of any of their clients. Thus, a participant will be able to designate for each opened account in the SaFIR system the type of the account, specifically whether in that account are recorded the financial instruments of several of its customers ("omnibus type segregation of customers") or of a single customer ("individual customer segregation"), in accordance with the *SaFIR System Rules*.

Individual segregation ensures a better level of protection in the case of an operational incident at the level of a participant, as customers that have chosen this type of account will find the records of its financial instruments also in the register of the SaFIR system.

[2] Please refer to *SaFIR System Rules* sections 1.1., 5.2.4., 5.2.5., 7. and 8 for further details.

1.2. Legal requirements on segregation of accounts

- ***Regulation (EU) no. 909/2014 of the European Parliament and of the Council on improving the settlement of securities in the European Union and on central securities deposits***

Art. 38 - Protection of securities of participants and those of their clients	*1) For each securities settlement system it operates, a 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.* *(2) A CSD shall keep records and accounts that enable any participant to segregate the securities of the participant from those of the participant's clients.* *(3) CSD shall keep records and accounts that enable any participant to hold in one securities account the securities that belong to different clients of that participant ('omnibus client segregation').* *(4) A CSD shall keep records and accounts that enable a participant to segregate the securities of any of the participant's clients, if and as required by the participant ('individual client segregation').* *(5) A participant 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.* *However, a CSD and its participants shall provide individual clients segregation for citizens and residents of, and legal persons established in, a Member State where required under the national law of the Member State under which the securities are constituted as it stands at 17 September 2014. That obligation shall apply as long as the national law is not amended or repealed and its objectives are still valid.* *(6) CSDs and their participants shall publicly disclose the levels of protection and the costs associated with the different levels of segregation that they provide and shall offer those services on reasonable commercial terms. Details of the different levels of segregation shall include a description of the main legal implications of the respective levels of segregation offered, including information on the insolvency law applicable in the relevant jurisdictions.* *(7) A CSD shall not use for any purpose securities that do not belong to it. A 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.*

- ***NBR Technical rules No. 1/2006 in application of the NBR Regulation No. 12/2005 on the government securities secondary market operated by the National Bank of Romania***

Art. 39	*(1) The participants are obliged to maintain precise records regarding the customer identification data, in accordance with the provisions of Norm no. 3/2002 regarding the knowing clientelle standards, with the subsequent modifications.* *(2) The participants on the secondary market will keep accurate records of all the operations carried out on the clients' accounts, as well as the supporting documents on the basis of which these operations are carried out.* *3) In dealing with corporate clients, participants must ensure that the staff of that client is authorized to represent it and to conduct such transactions.*

1.3. Levels of segregations in SaFIR system

The SaFIR system is organized based on indirect holding system. In accordance to the *SaFIR System Rules*, there are the following types of accounts that can be opened in the system for recording the customers' financial instruments:

- **own account (OW)** – the account that is used to record the participant's own financial instruments;
- **omnibus client account (OM)** – the type of account opened on the participant's name where the participant's customers financial instruments, physical persons and/or corporate, residents or non-residents, are reorded on a collective basis;
- **individual segregated account (IS)** – the type of account that allows one participant to choose the appropiate level of segregation for its own customers.

Information on opening, updating and closing the accounts of financial instruments can be found in the *SaFIR System Rules*, section 4.1.

2. The main legal implications

The main legal implications of the segregation levels of the accounts of financial instruments in the SaFIR system are linked to the effects that the levels of segregation of accounts may have in the event of the opening of insolvency proceedings on a participant in the system.

The SaFIR system operates in accordance with the provisions of the Romanian legislation and the accounts of the financial instruments opened in the SaFIR system are governed by the Romanian legislation.

The financial instruments of the clients of any participant in the SaFIR system are segregated from the own financial instruments of the participant in question. Irrespective of whether the financial instruments

are recorded in the individual client accounts (*IS*) or in the omnibus client account (*OM*), the ownership right of the clients of any participant to the SaFIR system over the financial instruments recorded in their accounts is not affected by the insolvency of that participant. The financial instruments of a participant's clients, registered in the accounts opened SaFIR system, are not in the ownership of that particular participant and, thus, will not be included in the insolvency estate in the event of insolvency proceedings opening against the participant.

All SaFIR system's participants are required to perform a daily reconciliation with the system for the participants' own accounts and the clients' accounts. The SaFIR system analyzes the possible disparities and inconsistencies between information provided by the participants and the information registered in the system, and, if possible, the system administrator is attempting to solve them up to the opening of the next business day settlement session. In the case no resolution is found in that period of time, the system administrator may suspend a certain financial instruments issue until the case is corrected, and the suspension is mandatory if the case remains unsolved at the end of the next business day. The daily reconciliation ensures the accuracy of the records registered in the accounts of the participants to the system and of their customers, thereby providing an adequate protection of their assets that are held in the account opened with SaFIR system.

To conclude, as long as a SaFIR participant registers the financial instruments of its clients in accordance with the applicable legal requirements, its clients benefit from the same level of protection in case of insolvency of the participant, regardless of the type of account in which the financial instruments are registered:

<table>
<tr><th colspan="2">Account type</th><th>Ownership right</th><th>Level of pretection, including the case of the insolvency of a participant to the SaFIR system</th></tr>
<tr><td>OW</td><td>Own account</td><td>Certified by the registration in the SaFIR system's records</td><td>The assets belong to the patrimony of the participant in the SaFIR system</td></tr>
<tr><td>OM</td><td>Omnibus client account</td><td rowspan="2">Certified by the registration in the records of the intermediary, which is participant to the SaFIR system, being registered as well in the SaFIR system, cumulatively or individually</td><td rowspan="2">The assets do not belong to the intermediary's patrimony and can be transferred by their owner to another intermediary, which is participant to the SaFIR system</td></tr>
<tr><td>IS</td><td>Individual segregated account</td></tr>
</table>

The use of any type of accounts of instrument of financial instruments (*OW*, *IS* and *OM*) will not cause different types of risks for participants to the SaFIR system (operational, financial or legal risks).

3. Insolvency legislation

- Law No. 85/2014 on insolvency prevention and insolvency proceedings, as subsequently amended and supplemented, published in the Official Journal of Romania Part I No. 466 of June 25, 2014; 021 303 6969
- Law No. 253/2004 on the settlement finality in the payment systems and securities settlement systems, as subsequently amended and supplemented, published in the Official Journal of Romania Part I No. 566 of June 28, 2004.

The procedure applied by the system administrator in case of opening the insolvency procedure for a participant to the system is addressed in section 8 of the *SaFIR System Rules*, which are an integral part of the SaFIR Accession Agreement.

4. Costs associated to every segregation level

Technically and functionally there are no limitations of the number individual segregated accounts (*IS*) that a participant can open in the SaFIR system. Due to this flexibility, the participants to the system have the possibility to organise their portfolios of financial instruments as their clients to be able to choose among segregation levels that consider suitable for their own needs.

The SaFIR system has a transparent pricing policy, the list of all fees being available on the website of the National Bank of Romania, specifically in the Appendix no. 9 to the *SaFIR System Rules* (https://www.bnr.ro/DocumentInformation.aspx?idDocument=5312&directLink=1).