

INDEPENDENT ASSET MANAGERS AND CUSTODIAN BANKS – FINSA IMPACTS AND DIVISION OF RESPONSIBILITIES

November 2021

INTRODUCTION

Banque Pictet & Cie SA, (the Bank) provides custody services to clients who have entrusted the management of their assets to an independent or external asset manager (IAM).

Switzerland has enacted the Financial Services Act (FinSA) aimed at providing greater protection for investors. FinSA applies to financial intermediaries that provide financial services on a commercial basis (i.e. pursuing an independent economic activity on a permanent, for-profit basis) in Switzerland, whether they are based in Switzerland or if they provide said services to clients in Switzerland.

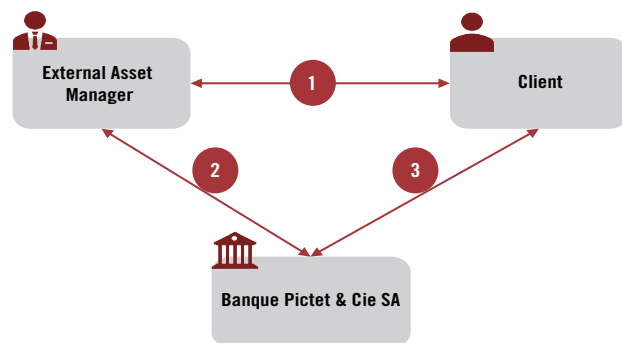
The purpose of this brochure is to give you an overview of the impact of FinSA on the three-party relationship between the client, the IAM and the Bank. It does not attempt to provide detailed information on the measures that the IAM must take to comply with the requirements of FinSA.

Do not hesitate to contact your IAM for more information. For more information on the provisions of FinSA, please refer to the “Information about FinSA regulation governing investor protection” brochure available on our dedicated investor protection webpage:

www.group.pictet/finsa-pas

TRI-PARTITE RELATIONSHIP

FinSA will regulate relations between financial services providers and their clients. When a client entrusts the management of their assets to a third party (namely an IAM), whether through a management mandate or an advisory mandate with the latter, and the safekeeping of the assets to the Bank, a three-party relationship is born between these parties. Each party to the relationship with the client must comply with different requirements. In cases where the client has appointed an IAM to manage their assets held in custody at the Bank, the IAM is mostly responsible for ensuring compliance with the requirements of FinSA as described below:



CUSTODY AND ADDITIONAL SERVICES

- 1. Relationship between the IAM and the client:** the IAM must classify the client in one of the following three categories – private, professional or institutional – and comply with the following requirements as provided for by FinSA depending on the client’s classification and the type of services rendered (discretionary or advisory):
 - a. provide clients with information about the requested services and the financial instruments in question, as well as the risks and costs associated with them;
 - b. assess the suitability of the requested services or the appropriateness of the financial instruments in question in light of the client’s risk profile, financial situation and investment objectives, as well as their knowledge and experience;
 - c. ensure best execution of the client’s orders; and
 - d. document the services provided to the client and render account thereof.
- 2. Relationship between the Bank and the IAM:** the relationship between the Bank and the IAM as representative of the client (including any cooperation agreement between the Bank and the independent asset manager) is not considered a financial service subject to FinSA. As such, no particular requirements apply.
- 3. Relationship between the Bank and the client:** in its capacity as custodian, the Bank must comply with certain requirements in the execution of orders (and the acquisition/disposal of financial instruments where applicable), e.g. classifying clients as private, professional or institutional, ensuring best execution of the orders transmitted by the IAM, as well as providing information about the service provided, documenting it and rendering account thereof.

As custodian, we handle several tasks related to the administration of assets that do not fall under the scope of FinSA, as these services are not considered financial services within the meaning of the regulation. These include:

- › holding clients’ financial assets in safekeeping;
- › facilitating trade settlement;
- › collecting interest and dividends, and exercising rights attached to the assets in custody;
- › recording the positions held in the portfolio and related transactions in a timely manner.

Order execution services, however, are governed by FinSA, as are services to acquire/dispose of financial instruments. Furthermore, some services (listed below) provided to certain clients in addition to the mere custody of assets, subject to the client signing the appropriate documentation, are governed by FinSA:

- › cash management services provided as part of a specific mandate;
- › securities lending services, enabling clients to earn additional income, provided as part of a specific mandate;
- › setting up of credit facilities: the granting of loans secured by assets pledged as collateral, such as a Lombard loan, is subject to FinSA. Given the specific risks associated with this type of lending, FinSA provides for certain requirements on investor protection (information, documentation and rendering of account).

In providing these additional services, the Bank must comply with the provisions of FinSA.

Legal information

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