Degroof Petercam

European Markets in Financial Instruments Directive (MiFID II)

MiFID II

Information for **eligible counterparties** of Banque Degroof Petercam Luxembourg

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Introduction

In 2004, the European Union took the initiative of issuing a set of rules with the aim of ensuring the integrity and transparency of financial markets and protecting investors. In force since November 2007, MiFID became the cornerstone of the European Union's regulation of investment services in financial instruments and the operation of traditional stock exchanges and alternative trading venues. Furthermore, it helped increase competitiveness by creating a single market. MiFID also ensured a high degree of harmonised protection for investors in financial instruments.

To address the shortcomings observed during the 2008 financial crisis, the European Commission overhauled European regulations on financial markets and investment products. Accordingly, the Commission has adopted a new Directive called MiFID II and a new MiFIR Regulation (EU Regulation (EU) No. 600/2014), in addition to all European and national laws and regulations, including the related implementing measures.

MiFID II aims to reinforce the European rules by:

For investors, by increasing investor protection through stricter rules on conflicts of interest and by improving the transparency of information provided by financial actors in investment services. .

On the stock markets:

- by enhancing investor protection and improving conduct of business rules and the level playing field in the trading and settlement of financial instruments;
- by improving the transparency and oversight of financial markets - including derivatives markets - and by addressing some shortcomings in commodity derivatives markets.

MiFID II entered into force on 3 January 2018.

The purpose of this brochure is to inform you of the main provisions of the MiFID II directive affecting your relations with the Bank. The topics addressed are as follows:

- classification of Clients;
- the Personal and Financial Stocktaking, your investment profile;
- the investment services offered by the Bank;
- information provided by the Bank in the context of MiFID II;
- the nature and specific risks of the financial instruments offered by the Bank;
- summary of the policy for order execution policy for financial instruments;
- information on the protection of clients' financial instruments and funds;
- information on inducements received or paid by the Bank;
- summary of the conflict of interest policy of the Bank.

1 Classification of Clients

The Bank has always been committed to providing a personalised service to its clients, tailored to their particular situation. This strategy is in line with the philosophy of the MiFID II regulation, which obliges financial institutions to treat their clients in a manner appropriate to their situation and their experience and knowledge of financial matters.

In practice, the MiFID II regulation obliges financial institutions to classify their clients into three categories, namely retail (non-professional) clients, professional clients and eligible counterparties, and to apply to these clients a protection regime adapted to their category. The distinction among these categories is based on the client's experience and knowledge of financial matters: the professional clients and eligible counterparties categories are reserved to clients with experience and in-depth knowledge of financial matters, requiring a lower level of information and protection in the context of their financial transactions.

The retail clients category is reserved to clients with more limited experience and knowledge of financial matters requiring a higher level of information and protection.

MiFID II obliges financial institutions to inform their clients of the category in which they have been placed (retail or professional client, or eligible counterparty).

You qualify as an eligible counterparty,
but you have the right to request a different classification, i.e. “professional client” or “retail client”, if you meet certain criteria defined by law.

This change is subject to the prior written approval of the Bank.

Please contact your relationship manager if you wish to proceed in this way.

2 Personal and Financial Stocktaking

For clients with an account with the Bank, depending on the investment services you wish to obtain, the Bank will be required to obtain a certain amount of data in order to verify that the transactions you wish to carry out with respect to a financial instrument are appropriate and/or adequate. We have developed a questionnaire known as "Personal and Financial Stocktaking" (PFS) in order to collect this data.

If you wish **to receive advice from the Bank** or take advantage of **our discretionary management service,** the PFS collects information on **your financial situation,** including your capacity to incur losses, and **you investment objectives,** including your risk tolerance.

We use these questions to establish your investment profile.

The investment profile is determined on the basis of the combination of your level of knowledge and experience in the various categories of financial instruments and the risk profile that is attributed to you using this questionnaire.

Your risk profile depends on your risk appetite and your financial capacity to absorb potential losses. **The Bank has defined 5 risk profiles: Low, Medium-Low, Medium, Medium-High and High.**

By determining your investment profile, we can provide you with discretionary management or investment advisory services that take into account your risk profile and your knowledge and experience of financial instruments.

The Bank does not provide investment advisory or portfolio management services to eligible counterparties. However, if you wish to receive these services, the Bank will be required to treat you like a professional client.

Notwithstanding the conditions of signature that the account holders have agreed to on the account opening application, the account holders authorise the "designated person" in the PFS questionnaire to alone issue any order to buy/subscribe or sell financial instruments.

Should the financial situation and objectives change, you must inform the Bank without delay and a new PFS questionnaire must be completed.

If you do not complete the PFS, you will not be able to execute any purchase/subscription orders on financial instruments and will not have access to any investment service offered by the Bank.

3 Investment services offered to the client

The Bank offers three types of investment services:

1. Investment advice;
2. Discretionary management;
3. The reception, transmission and execution of orders without the advice of the Bank.

Investment advice and discretionary management

If you wish to receive investment advice and/or portfolio management services, please get in touch with your contact person at the Bank.

Receipt, transmission and execution of orders

The Bank offers order reception, transmission and execution services to clients who have opted not to receive investment advisory or discretionary management services. These services enable clients, on their own initiative, to transmit buy and sell orders for all the financial products included in the Bank's range of products.

If the Bank receives an order to buy and sell on financial instruments from a professional client or an eligible counterparty, the Bank is entitled to assume that the client has the necessary experience and knowledge with regard to the investment concerned. Consequently, the Bank does not verify the appropriateness of the order or the investment service with regard to the experience and knowledge of the client.

4 Information provided by the Bank in the context of MiFID II

MiFID II regulates the information that the Bank must provide to the client so that the client is sufficiently informed before an investment service is provided.

Information that the Bank must provide to the client upon initiation of the banking relationship

When the banking relationship is initiated, the Bank must provide the client, on a durable medium[1], various contractual documents including, inter alia, the General Conditions of the Bank, the Bank's fee schedule, a and a copy of this MiFID II brochure.

The client must also expressly agree that:
- the Bank's being allowed to execute orders outside of a regulated market or multilateral trading facility, which may in particular be the case for orders relating to bonds, units/shares in investment funds and structured products.
- the Bank has the option not to disclose to the market any limit orders which it was not possible to execute immediately. This allows the Bank to execute an order by tranche depending on how the market evolves.

This express agreement is given by signing the "MiFID II Consent" section of the PFS or the "Acceptance Letter" in the "Terms of Business".

Information relating to order execution

For clients receiving investment services other than portfolio management, a confirmation is sent to the client without delay after the execution of an order on a financial instrument in order to inform the client that its order(s) has (have) been executed. This confirmation also includes detailed information about the transaction.

Periodic Reports

The Bank sends clients having an account with the Bank a portfolio valuation report at least quarterly, which includes in particular:
- the amount of liquid assets and the most recent value of the client's financial instruments, on the basis of the last average indicative price for currencies and on the basis of the last stock exchange price or the last known price for securities;
- an overview of the breakdown of the client's portfolio risk;
- the performance of the client's portfolio;
- a statement of all fees and commissions collected or received by the Bank.

[1] Durable support: any tool which allows the customer to keep the information which is personally addressed to him so that this information be easily accessible for future use for an appropriate period of time and allowing reproduction of non-stored data modified.

5 The nature and specific risks of the instruments offered by the Bank

In accordance with MiFID II, the Bank provides you with general information about the characteristics of the main financial instruments part of the investment universe of the Bank and their inherent risks.

However, given your classification as an eligible counterparty, you authorise the Bank to assume that you are able to understand the characteristics of these financial instruments and the risks attached therewith.

6 Order execution policy for financial instruments

Introduction

MiFID II requires financial institutions to take all sufficient steps when executing transactions involving financial instruments on behalf of their clients to **obtain the best possible result for their clients** taking into account a number of factors such as price, cost, speed and likelihood of execution, size and nature of the order.

It also requires financial institutions, before executing orders involving financial instruments, to establish an order execution policy in which they explain how they intend to fulfil their obligations in this respect, in accordance with the provisions of MiFID II and more particularly Article 27.

However, the Bank is not obliged to apply its execution policy to its eligible counterparty clients. Accordingly, this policy will not apply to your dealings with the Bank.

7 Information on the protection of clients' financial instruments and funds

The Bank respects the following principles with regard to **the protection of financial instruments and funds of a client that has an account at the Bank:**

- the Bank takes the necessary steps in the context of its activities involving the deposit of financial instruments to distinguish at all times the assets held by any given client from those held by other clients and from the Bank's own assets. It complies in particular in this context with the applicable legal provisions regarding **the segregation of own and clients' assets;**
- when depositing Clients' financial instruments with a third party intermediary, the Bank ensures that this third party intermediary separately **identifies the clients' financial instruments** from both those of the Bank and those of the third party intermediary;
- the Bank acts with **prudence, care and diligence** in selecting, appointing and periodically examining these third party intermediaries with which it deposits its clients' financial instruments and as regards the legal and contractual provisions governing the holding and safekeeping of these financial instruments;
- if the Bank **deposits its clients' financial** instruments with third party intermediaries, it does **so only through intermediaries subject to the law of a Member State of the European Union** or of a state with regulations covering the holding of financial instruments on behalf of third parties, unless the nature of the financial instruments is such as to require their being deposited in a state that does not have such regulations. The clients' financial instruments may be deposited in a global account (omnibus account) with a third party intermediary, without their being segregated in this intermediary's books, unless the country's regulations require that this be done.

Except in the event of gross negligence or wilful misconduct on its part, the Bank may not be held liable for damages resulting from the total or partial loss of the financial instruments deposited in the event of the negligence of the third party intermediary selected by it or the occurrence of insolvency proceedings against it.

The Bank does not engage in securities financing transactions using the financial instruments it holds on behalf of a client, nor does it use these financial instruments unless the following two conditions are met:

- the client has previously given its express consent to such use;
- the Bank's use of financial instruments is limited to the specific terms and conditions agreed to by the client.

8 Inducements received or paid by the Bank

Within the framework of its investment services, the Bank grants/receives certain remuneration to/from third parties provided that the payment or inducement:

- is designed to **enhance the quality of the relevant service** provided to the client;
- does not impair compliance with the Bank's duty to act **honestly, fairly and professionally** in accordance with the best interest of its clients;
- is clearly **disclosed to clients** (existence, nature and amount).

These inducements may consist of monetary benefits, such as a retrocession of management fees from an investment fund, or non-monetary benefits, such as media, for example.

Before a transaction involving a financial instrument is executed, **the Bank shall inform the client of the extent and nature of the remuneration** it receives/grants in connection with the planned transaction in the financial product concerned via order reports and other specific reports set up by the Bank.

If the Bank receives remuneration in connection with the receipt, transmission and execution service (PFS), the Bank retains the amounts received and informs the client accordingly.

In accordance with MiFID II, the **amounts retained are used to increase the quality of client services.** The ancillary services provided by the Bank and warranting the remuneration and monetary or non-monetary benefits received may include the provision of the suitability report. The client is informed of the amount collected and retained or collected and paid via the valuation report sent at least quarterly.

The Bank receives information and research analyses from external analysts, which it pays for out of its own funds through direct or indirect invoicing.

9 The conflict of interest policy of the Bank

This section is a summary of our conflict of interest policy. The full version can be obtained on request from your contact person at the Bank.

The Bank establishes and develops a business relationship with its clients by acting **honestly, fairly and professionally.** The Bank is guided by the objective of serving the best interests of its clients. To this end, it pays constant attention to potential conflicts of interest that could affect the Bank's efforts to provide optimal services to its clients.

A conflict of interest is a conflict that arises when two or more natural or legal persons have **opposing interests that could result in a potential loss or disadvantage to the client.** Conflicting interests could arise:
- between the Bank and the client;
- between different clients;
- within the Bank (e.g. between departments or business lines/units).
- between other entities of the group to which the Bank belongs.

The Bank undertakes all necessary administrative, organisational and supervisory measures to identify, prevent and manage conflicts of interest.

Identification of (potential) conflicts of interest

To detect conflicts of interest that may arise in the provision of investment services, the Bank takes into account situations in which it, or one of its employees or a person directly or indirectly linked to the Bank by a control relationship:
- is likely to **make a financial gain or avoid a financial loss at the expense of the client ;**
- has an **interest** in the result of a service provided to the client or a transaction carried out by the client **that is different from that of the client;**
- is encouraged for financial or other reasons **to give priority to the interests of another client or group of clients;**
- has the **same professional activity as the client ;**
- receives or will receive from a person other than the client **an inducement in relation to a service provided to the client,** in the form of monies, goods or services, other than the standard commission or fee for that service.

Consequently, the Bank has set up **an inventory of potential conflicts of interest by investment activity or service.** The situations described below, which are not exhaustive, may give rise to a conflict of interest when the Bank acts on behalf of its clients (list of potential conflicts of interest):

- accepting **gifts** from a client or intermediary (including gifts of a non-financial nature);
- selling complex products **without sufficient explanation** to clients, against the interest of a specific client;
- using **confidential information** obtained froma client to take advantage of it for the Bank's account or for the personal account of an employee;
- conducting **personal transactions** by an employee of the Bank when one or more clients have opposing or competing interests (e.g. causing the client to suffer losses as a result of price movements);
- **incentive-based product placement;**
- **favouring one client** (or a group of clients) over another (who will be disadvantaged) when multiple clients put the same securities up for purchase or sale by not respecting the order of receipt of the orders;
- **favouring a supplier** with no basis in relation to the services rendered.

Prevention and management of conflicts of interest

For each situation, activity and service identified, the Bank determines the conflicts that could occur, the organisational measures for avoiding or managing conflicts, the residual risk and the communications to be given to the client.

To prevent and avoid conflicts of interest, the Bank may, among other measures:

- **monitor or prohibit the flow of information** between data subjects who are engaged in activities involving a risk of conflict of interest (Chinese walls);
- **prevent any direct link** between the remuneration of relevant persons engaged in a particular activity and the remuneration of different relevant persons engaged in another activity, where a conflict of interest may arise in relation to those activities;
- **monitor relevant persons** whose activities could give rise to conflicts between the interests of clients and the interests of the Bank;
- **prevent or control the simultaneous or consecutive participation** of a person involved in two or more investment or ancillary services, where such participation is likely to impair the proper management of conflicts of interest;
- ensure an **appropriate degree of independence** of persons engaged in the various activities involving a conflict of interest;

- require its employees to obtain the Bank's **prior approval** before accepting external mandates;
- put in place **internal measures** forthe acceptance of inducements (monetary and non-monetary);
- ensure the **confidentiality of information** communicated by clients to the Bank's employees.

Additional measures are applied in the departments concerned to avoid specific conflicts of interest.

Procedure to be followed if a conflict of interest arises

If a conflict of interest arises, any person who notices it **must immediately notify** his/her direct superiors and the Compliance Department, which will inform the Executive Committee. The member of the Executive Committee, acting on the advice of the Compliance Department, will decide by mutual agreement on the measures to be taken.

Following a conflict of interest, the Bank may take the following measures:

- **carry out the transaction** giving rise to a conflict of interest while taking the **necessary measures to manage the conflict of interest** without prejudicing the interests of the client concerned;
- **not carry out the transaction** involving a conflict of interest.

The Bank undertakes to keep and regularly update a **register** recording the types of investment or ancillary services or specific activities for which a conflict of interest involving the risk of harming the interests of one or more clients has occurred.

Information provided to the client in the event of an insoluble conflict of interest

It is possible that the organisational or administrative measures taken by the Bank to prevent conflicts of interest from affecting the interests of its clients may not be sufficient to ensure, with reasonable certainty, that the risks of affecting the interests of clients will be avoided. In such a situation, the Bank shall clearly inform clients before acting on their behalf and/or for their account of the general nature and/or source of such conflicts of interest, as well as the **measures taken to mitigate such risks,** on a durable medium.

Managing conflicts of interest relating to inducements

In the context of receiving incentives, the Bank must comply with the obligation to act honestly, fairly and professionally in the best interests of its clients. MiFID II strengthens requirements and **imposes restrictions** on fees, commissions and non-monetary inducements paid or provided by the Bank or received by it from a third party in connection with the provision of investment services or related services.

The Bank complies with this obligation as follows:

- the Bank has put in place **procedures** to manage conflicts of interest related to product incentives;
- in certain cases, the Bank may receive **retrocessions** for investments in investment funds and incentives for investments in other products in its range. **All investment funds will be treated in the same way** and there will no longer be any financial incentive to sell one investment fund (with retrocessions) compared to another (without retrocessions), and the same rules apply for other types of products;
- the Bank **trains its employees** on conflicts of interest.

Contact

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