

## NOTIFICATION TO COUNTERPARTY OF EXEMPT TRANSACTIONS

Luxembourg, November 14, 2017

Dear Sir/Madam,

Pursuant to Article 1(6) of the Markets in Financial Instruments Regulation (MiFIR)<sup>1</sup> pre- and post-trade disclosure requirements under Articles 8, 10, 18 and 21 of the MiFIR do not apply to transactions where one of the counterparties is a member of the European System of Central Banks (ESCB), where that transaction is entered into in performance of monetary, foreign exchange and financial stability policy and where the member of the ESCB concerned has given prior notification to the other counterparty that the transaction is exempt.

These exempt transactions are further specified in Article 14 of Commission Delegated Regulation (EU) 2017/583<sup>2</sup> ('Delegated Regulation'), which provides that:

*'A transaction shall be considered to be entered into by a member of the European System of Central Banks (ESCB) in performance of monetary, foreign exchange and financial stability policy where that transaction meets any of the following requirements:*

- (a) the transaction is carried out for the purposes of monetary policy, including an operation carried out in accordance with Articles 18 and 20 of the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on European Union or an operation carried out under equivalent national provisions for members of the ESCB in Member States whose currency is not the euro;*
- (b) the transaction is a foreign-exchange operation, including operations carried out to hold or manage official foreign reserves of the Member States or the reserve management service provided by a member of the ESCB to central banks in other countries to which the exemption has been extended in accordance with Article 1(9) of Regulation (EU) No 600/2014;*
- (c) the transaction is carried out for the purposes of financial stability policy.'*

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<sup>1</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

<sup>2</sup> Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L 87, 21.3.2017, p. 229).

With regard to monetary policy operations, all types of operations are covered, i.e. reverse transactions, outright transactions and any other instrument that may currently, or in the future, be used in the context of the Eurosystem's monetary policy operations. If being conducted via means that could also be used by central banks for non-monetary policy transactions, counterparties can identify such exempt monetary policy related transactions as follows. If such exempt transactions are conducted on a trading platform, dedicated user accounts are used by ESCB staff which make explicit reference to the monetary policy nature of the transactions. Transactions conducted by phone or Instant Bloomberg (IB) chat can be assumed to be exempt, unless it is stated explicitly for the relevant transaction that it is conducted for the own funds portfolio. Moreover, a dedicated settlement account (Clearstream account 21382) is used for exempt transactions.

With regard to foreign exchange operations, the exemption covers any foreign currency denominated transaction conducted with a member of the ESCB, including foreign exchange policy and foreign reserve management transactions, irrespective of its actual purpose as stipulated under Article 14(b) of the Delegated Regulation.

With regard to financial stability operations, the exemption covers any transaction where we notify you in advance that it is carried out in performance of such policy.

For any further information regarding settlement accounts, please contact [bo@bcl.lu](mailto:bo@bcl.lu).

Pursuant to the provisions of the Delegated Regulation, we hereby notify you, irrespective of whether your institution presently qualifies, or may qualify in the future, as an investment firm that is subject to the MiFIR, that the aforementioned transactions, which we may conclude with you from time to time, are exempt from the said disclosure requirements under Article 1(6) of the MiFIR and accordingly may not be made public.

For the sake of completeness, we would also like to remind you of the complete list of central bank operations that may be disclosed by counterparties under Article 1(7) of the MiFIR pursuant to which: 'Paragraph 6 shall not apply in respect of transactions entered into by any member of the ESCB in performance of their investment operations.'

This is specified further in Article 15 of the Delegated Regulation, which provides that Article 1(6) of the MiFIR: *'shall not apply to the following types of transactions entered into by a member of the ESCB for the performance of an investment operation that is unconnected with that member's performance of one of the tasks referred to in Article 14:*

- (a) transactions entered into for the management of its own funds;*
- (b) transactions entered into for administrative purposes or for the staff of the member of the ESCB which include transactions conducted in the capacity as administrator of a pension scheme for its staff;*

*(c) transactions entered into for its investment portfolio pursuant to obligations under national law.'*

The list in Article 15 of the Delegated Regulation is exhaustive, therefore only these three types of transactions entered into with a member of the ESCB – and no others - may be disclosed by the MiFIR counterparty of a member of the ESCB.

With regard to BcL, a transaction entered into to manage BcL's own funds may be identified as follows: If conducted via an electronic trading platform, BcL traders will use a specific user account, which is distinct from the account used for monetary policy operations. If conducted by phone or Instant Bloomberg chat (IB), the request for quotes includes an explicit reference to the BcL's own funds portfolio. Dedicated settlement accounts are used for the management of BCL's own funds, which differ from the account used for monetary policy operations.

For general questions regarding the issues addressed in this letter you may also contact [polmon@bcl.lu](mailto:polmon@bcl.lu).

We kindly request you to take note of this communication and to inform, where applicable, all your relevant branches accordingly.