



# GENERAL INFORMATION ON MIFID II

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UNION BANCAIRE PRIVÉE

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## 1. Introduction

This document informs the client of solutions implemented by Union Bancaire Privée (hereinafter referred to as UBP or UBP Group) at group level in order to comply with the requirements of the European Union's "Markets in Financial Instruments Directive" (hereinafter MiFID II).<sup>1</sup>

## 2. UBP group entities concerned

UBP is a banking group whose holding company is a bank subject to Swiss law. The UBP Group consists of several banking and non-banking branches and subsidiaries in several countries, some of which are part of the European Union. The following entities are subject to the MiFID II regime:

- ◆ Union Bancaire Privée (Europe) S.A.;
- ◆ Union Bancaire Privée London branch;
- ◆ CBI-UBP International Ltd.

This document applies only to the relationships between those entities and their clients. It does not apply to the relationships with the clients of other UBP entities unless otherwise agreed between the client and UBP.

## 3. Introduction to MiFID II

### 3.1. Aims of MiFID II

MiFID II is a European directive which is essentially aimed at:

- ◆ **Harmonising the regulatory framework governing the provision of investment services:** the degree of harmonisation pursued by MiFID II will offer investors a high level of protection and will allow investment firms to provide their services in the entire European Economic Area, which constitutes a common market, on the basis of the surveillance exercised by their home Member State.
- ◆ **Increasing transparency and competition on financial markets:** by setting efficiency and transparency rules for financial markets, MiFID II aims to enhance the quality of the services provided to clients. The competition among execution venues will make services more efficient and less expensive.
- ◆ **Increasing investor protection:** by establishing specific rules for the different client categories, MiFID II grants clients protection matched to their individual characteristics.

### 3.2. Scope of MiFID II

#### 3.2.1. Investment services and activities

MiFID II also applies to investment firms (see the glossary in Annex I of this document), regulated markets, multilateral trading facilities (MTFs) or organised trading facilities (OTFs) and authorised credit institutions which provide one or several investment services and/or exercise one or several investment activities.

These are some of the services and activities that fall within the scope of MiFID II:

- ▶ Reception and transmission of orders in relation to one or more financial instruments;
- ▶ Execution of orders on behalf of clients;
- ▶ Dealing on own account;
- ▶ Portfolio management;
- ▶ Investment advice.

<sup>1</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

### 3.2.2. Financial instruments

MiFID II does not apply to all financial instruments used in the financial investment field. The client must be aware that MiFID II applies only to transactions involving the following financial instruments:

- ▶ Transferable securities;
- ▶ Money-market instruments;
- ▶ Units in collective investment undertakings;
- ▶ Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash;
- ▶ Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that may be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or termination event);
- ▶ Options, futures, swaps and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF or OTF, with the exception of wholesale energy products traded on an OTF and settled physically;
- ▶ Options, futures, swaps and any other derivative contract relating to commodities that can be physically settled and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls;
- ▶ Derivative instruments for the transfer of credit risk;
- ▶ Financial contracts for differences;
- ▶ Options, futures, swaps and any other derivative contract relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, an OTF or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls;
- ▶ Emission allowances consisting of any units recognised for compliance with the requirements of Directive 2003/87/EC.

## 4. Services offered by UBP

### 4.1. General

Built on a strong foundation of entrepreneurial vision and innovative drive, UBP draws on the top financial talents to achieve capital protection combined with returns. As far as MiFID II is concerned, UBP concentrates on just one profession: private banking in the broad sense, both for private and for institutional clients. This activity comprises three business divisions: private banking, institutional asset management and alternative asset management.

With regard to private banking, UBP provides all the services listed in chapter 3.2.1.

### 4.2. Portfolio management agreement

UBP offers its clients the possibility of entering into a portfolio management agreement based on an investment profile. The contract only becomes effective if entered into in written form. The rights and obligations of the parties are those set out in the agreement, which is the only legally binding document between the parties.

### 4.3. Investment advisory agreement

The investment advisory service offered by UBP comes in two forms:

- ◆ An ad hoc investment advisory agreement;
- ◆ An investment advisory agreement of unlimited duration.

#### 4.3.1. Ad hoc investment advisory agreement

The ad hoc investment advisory agreement is the basic advisory agreement. **Upon express request**, UBP offers clients that did not enter into a portfolio management agreement the option of receiving investment advice any time they wish to purchase or sell a financial product. This investment advisory service must be requested before every transaction. Clients that wish to take advantage of this service have to renew the request before every transaction. The request is made by the client orally.

This investment advisory service only binds UBP at the time the order is executed. More specifically, UBP is not required to follow up on the prices of positions deposited in the portfolios of clients that have not signed a portfolio management agreement, nor is it responsible for contacting these clients to advise them on the course of action to adopt.

#### 4.3.2. Investment advisory agreement of unlimited duration

This is a form of agreement with a very limited application. It is only used in very specific situations. As with the portfolio management agreement, the rights and obligations of the parties are those set out in the agreement, which is the only legally binding document between the parties.

#### 4.3.3. Distinction from financial analysis and general advice

According to MiFID II, “investment advice’ means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments.”

The following should not be considered investment advice:

- ▶ Advice about financial instruments given in a newspaper, journal, magazine or any other publication addressed to the general public (including by means of the internet), or in any television or radiobroadcast;
- ▶ Publications pertaining to any type of UBP product made available to the public, such as prospectuses, simplified prospectuses, activity reports or any other similar documentation;
- ▶ Generic advice about a type of financial instrument. For example, a recommendation to invest in the bond market does not constitute investment advice within the meaning of MiFID II.

### 4.4. The execution, reception and transmission of orders

UBP has the infrastructure needed for executing clients' orders. This activity is explained in the best-execution policies of the entities concerned.<sup>2</sup>

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<sup>2</sup> The best-execution policies can be viewed available on UBP's website ([www.ubp.com](http://www.ubp.com)) by clicking on the "Legal" tab.

## 5. MiFID II client categories

### 5.1. Introduction

MiFID II has defined three different client categories:

- ◆ Eligible counterparties;
- ◆ Professional clients, which include:
  - ▶ Clients that can be treated as professional at their own request, defined as opt-up professionals;
  - ▶ Clients defined as per se professionals;
- ◆ Retail clients.

The following chapters define the criteria for belonging to the categories listed above.

### 5.2. Eligible counterparties

The following should be regarded as eligible counterparties:

- ◆ Investment firms;
- ◆ Credit institutions;
- ◆ Insurance companies;
- ◆ UCITS and their management companies;
- ◆ Pension funds and their management companies;
- ◆ Other financial institutions authorised or regulated under Community legislation or the national law of a Member State;
- ◆ National governments and their corresponding offices including public bodies that deal with public debt, central banks and supranational organisations.

Clients that have been classified as eligible counterparties have to be aware that when UBP provides them with investment advisory or portfolio management services they are considered per se professionals (see the next point).

### 5.3. Professional clients

#### 5.3.1. Definition

A professional client is a client that possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs.

There are two types of professional clients:

- ▶ Per se professionals;
- ▶ Opt-up professionals.

#### 5.3.2. Per se professional clients

The following should be regarded as per se professional clients:

##### **1. Entities which are required to be authorised or regulated to operate in the financial markets.**

- a) Credit institutions;
- b) Investment firms;
- c) Other authorised or regulated financial institutions;

- d) Insurance companies;
- e) Collective investment schemes and the management companies of such schemes;
- f) Pension funds and the management companies of such funds;
- g) Commodity and commodity derivatives dealers;
- h) Local companies;
- i) Other institutional investors.

**2. Large undertakings meeting two of the following size requirements on a company basis:**

- ▶ Balance sheet total: EUR 20 million;
  - ▶ Net turnover: EUR 40 million;
  - ▶ Own funds: EUR 2 million.
- 3.** National and regional governments, public bodies that manage public debt, central banks, international and supranational institutions such as the World Bank, the IMF, the ECB, the EIB and other similar international organisations.
- 4.** Other institutional investors whose main activity is to invest in financial institutions, including entities dedicated to the securitisation of assets or other financing transactions.

This category applies to all services within the meaning of MiFID II (see Chapter 3.2.1) and to all financial investments.

**5.3.3. Opt-up professional clients**

Clients other than those mentioned in the previous point, including private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules by requesting to be treated as opt-up professionals. The client must state that it is aware of the consequences of losing the protections provided; these consequences will be specified by UBP.

UBP is therefore allowed to treat any of its clients as opt-up professionals provided the relevant criteria (see 8.2.2) and procedure mentioned below are fulfilled. Those clients shall not, however, be presumed to possess market knowledge and experience comparable to that of per se professional clients.

Any such waiver of the protection afforded by the standard conduct of business regime shall be considered to be valid only if an adequate assessment of the expertise, experience and knowledge of the client, undertaken by UBP, gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making investment decisions and understanding the risks involved.

This category applies to all services within the meaning of MiFID II (see Chapter 3.2.1) and to all financial investments.

**5.4. Retail clients**

Retail clients are those that are considered neither as eligible counterparties nor as professional clients.

**5.5. Level of protection**

The level of protection afforded the clients depends primarily on their category and secondarily on their experience and knowledge of financial investments.

**5.5.1. Main differences in treatment between retail and professional clients**

The diligence an investment company has the duty to exercise is reduced when the counterparty is a professional client:

- ▶ Duty to provide information on costs and associated charges: UBP can agree with professional clients, under certain circumstances, to limit its duty to provide information on costs and associated charges.
- ▶ When assessing the appropriateness of a service to be provided, UBP shall be entitled to assume that a professional client has the necessary experience and knowledge in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the client is classified as a professional client.

- ▶ Where UBP provides an investment service to a professional client, UBP shall be entitled to assume that, in relation to the products, transactions and services for which it is so classified, the client has the necessary level of experience and knowledge to understand the risks involved in the transaction or in the management of the client's portfolio.
- ▶ Where UBP provides an investment advisory service to a professional client, it shall be entitled to assume that the client is able financially to bear any risk related to the investment in view of this client's investment objectives.
- ▶ UBP must inform a retail client about any material difficulty relevant to the proper carrying out of orders promptly upon becoming aware of it.

#### 5.5.2. Limited protection for eligible counterparties

Eligible counterparties are the least protected category. When dealing with this type of client, UBP:

- ▶ Is not subject to the duty of executing orders under the most favourable conditions for the client;
- ▶ Can agree with eligible counterparties, under certain circumstances, to limit its duty to provide information on costs and associated charges.
- ▶ Is not required to assess the appropriateness or suitability of the service to be provided;
- ▶ Is not subject to the order handling rules established by MiFID II, apart from the requirement to implement procedures and arrangements which provide for the prompt, fair and expeditious execution of client orders, relative to other client orders or the trading interests of the investment firm.

## 6. Category selection

### 6.1. Responsibility

It is for UBP to decide which category a client should belong to. The decision is taken on the basis of the information supplied by the client.

If the client is reluctant or the information provided is incorrect, UBP:

- ◆ is exempted of its responsibility to classify the client;
- ◆ reserves the right to unilaterally terminate the business relationship.

### 6.2. Clients' duty to inform

It is the client's responsibility to inform UBP of any change likely to affect the client's categorisation. The change of category can occur in application of the provisions in Chapter 8.

## 7. Category notification

### 7.1. Principle

Before providing any service which falls within the scope of MiFID II, UBP shall inform the client.

UBP has to inform the client every time the client changes category.

The methods for communicating the classification assigned to the client can change depending on the category (see the following points).

### 7.2. Eligible counterparties

Eligible counterparties shall be notified in writing. The client may at any time contest the chosen classification or request that a downgrading contract be signed (see Chapter 8.2.3).

Until it has received the written objection or the signed contract, UBP shall continue to treat the client as an eligible counterparty. Neither the objection nor the contract can be applied retroactively.

### 7.3. Professional clients

#### 7.3.1. Per se professional clients

Per se professionals shall be notified in writing. The client may at any time contest the chosen classification or request that a downgrading contract be signed (see Chapter 8.2.3).

Until it has received the written objection or the signed contract, UBP shall continue to treat the client as a per se professional. Neither the objection nor the contract can be applied retroactively.

#### 7.3.2. Opt-up professional clients

Subject to the transitional provisions, on express request from a client, and only where UBP is satisfied that the conditions for belonging to the category are met, UBP can decide to treat the client as an opt-up professional.

The change to the opt-up professional category shall not take effect until the up-/downgrading contract has been signed (see Chapter 8.2.1).

The signing of the upgrading contract implies that a notification has been sent to the client and the client has accepted this classification.

The client can request to change category at any time. Until the new contract has been signed, the client shall retain its status as an opt-up professional.

### 7.4. Retail clients

The notification shall be made by a recordable means of communication.

If an upgrade is requested (see Chapter 8.2.2), the change of category will take place only when the contract is signed.

## 8. Change of category

### 8.1. Introduction

UBP can decide to change the client category:

- ◆ On express request from the client;
- ◆ On its own initiative.

Under MiFID II, UBP shall be permitted:

- ◆ To treat a retail client as an opt-up professional, provided the required conditions are met (see below);
- ◆ To treat a professional client as a retail client;
- ◆ To treat an eligible counterparty as a professional or retail client.

No client shall be authorised to request classification into a category of which the client does not fulfil the conditions. A retail client can therefore never be considered a per se professional or an eligible counterparty.

### 8.2. Change of category on express request of the client

#### 8.2.1. Upgrading and downgrading contracts

By signing an upgrading contract, the client declares that it understands the implications of belonging to a higher category and, in particular, that it is aware of the reduced level of protection afforded to it.

The downgrading contract formalises a lower categorisation and grants a higher level of protection.

## 8.2.2. Upgrades for retail clients

### a) Natural persons

A retail client must meet the following conditions to request to be treated as an opt-up professional:

Have carried out transactions, of a significant size, on the relevant market at an average frequency of ten per quarter over the previous four quarters;

Have a financial instrument portfolio, defined as including cash deposits and financial instruments, exceeding EUR 500,000;

Work or have worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

The change from retail client to opt-up professional is associated with a reduced level of protection (see Chapter 5.5). The client will also lose certain compensation rights.

UBP shall grant the upgrade only if an adequate assessment of the client's expertise, experience and knowledge, gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making its own investment decisions and understanding the risks involved.

The change to opt-up professional shall take effect with the signing of the specific upgrading contract.

### b) Legal entities

Legal entities classified as retail clients can also request an upgrade. In this case, they must fulfil the conditions described above.

The change to opt-up professional shall take effect only with the signing of the specific upgrading contract.

## 8.2.3. Downgrades for eligible counterparties and per se professionals

Eligible counterparties and per se professional clients can request to be downgraded.

Eligible counterparties can request treatment as per se professionals, but UBP shall not accept any request from eligible counterparties to be treated as opt-up professionals or as retail clients.

Per se professionals can request to be treated as opt-up professionals or retail clients.

The downgrade shall take effect only with the signing of the specific contract.

## 8.2.4. Waiving opt-up professional status

Clients that have signed an up- or downgrading contract which has given them the status of opt-up professional with UBP can request at any time to revert to their original classification.

For the change to be effective, UBP shall request that an opt-up professional classification waiver be signed.

## 8.2.5. Other changes of category

A change of category is permitted only in the cases described in the chapters above.

## 8.3. Unilateral decision by UBP

When UBP considers that a client no longer fulfils the conditions necessary to be treated as an eligible counterparty or a professional client, it shall take the following measures:

- ◆ Internally modify the client's status;
- ◆ Notify the client of the category change. In this case, oral notification is sufficient.

The notification is for information purposes only and is not binding. Moreover, UBP reserves the right to change the classification of a client without obtaining its prior consent.

## 8.4. Client declaration

The client must state in a separate document that it is aware of the consequences of losing such protections.

## 9. Reporting obligation

The information duty applies in particular to the areas detailed below:

### 9.1.1. The duty to supply information on UBP and its services

UBP has made available on its website (<https://www.ubp.com/fr/nos-bureaux/ubp-luxembourg>) a description of its activities and the products it offers.

### 9.1.2. The duty to supply information on the proposed investment profile

UBP informs its clients of the risks involved in the investment strategies it offers. It has no obligation to define an investment strategy when it is providing an execution-only service.

When providing a client with an investment service other than portfolio management or investment advice (see chapters 4.2 and 4.3.2), UBP shall inform the client of the different investment profiles available and agree with the client on the most appropriate one (see also chapter 10).

UBP has compiled useful information on the execution system in documents describing the order execution policy of the various entities that fall within the scope of MiFID II.

### 9.1.3. The duty to supply information concerning the financial instruments

UBP informs the client of the risks related to investments in different types of financial instruments before providing investment services.

The obligation to inform the client takes into account the client category.

A general description is provided and explains the nature of the particular instrument in question, how the financial instrument works and performs under various market conditions, including positive and negative conditions, and the specific risks associated with the instrument, with enough detail to allow the client to make informed investment decisions.

### 9.1.4. The duty to supply information on the preservation of financial instruments and client funds

All the information relevant to the preservation of financial instruments and client funds are contained in the General Terms of Business of the UBP entity with which the client has entered into a business relation.

### 9.1.5. Duty to supply information on fees and costs

UBP shall provide clients with all the necessary information on all costs and associated charges relating to both investment and ancillary services, including the cost of advice, where relevant, the cost of the financial instrument recommended or marketed to the client and how the client may pay for it, taking into account any third-party payments. This information includes the following relevant elements:

- a) the total price to be paid by the client in connection with the financial instrument or the investment service or ancillary service, including all related fees, commissions, charges and expenses, and all taxes payable or, if an exact price cannot be indicated, the basis for the calculation of the total price so that the client can verify it;
- b) where any part of the total price referred to in point (a) is to be paid in or represents an amount of foreign currency, an indication of the currency involved and the applicable currency conversion rates and costs;
- c) notice of the possibility that other costs, including taxes, related to transactions in connection with the financial instrument or the investment service may arise for the client that are not paid via UBP's intermediary or imposed by UBP;
- d) the arrangements for payment or other performance.

UBP provides clients with an illustration of the cumulative effect of costs on the return when it provides investment services.

The information about all costs and charges, including costs and charges in connection with the investment service and the financial instrument, which are not caused by the occurrence of underlying market risk, shall be aggregated to allow the client to understand the overall cost as well as the cumulative effect of the investment on the return, and where the client so requests, an itemised breakdown shall be provided. Where applicable, such information shall be provided to the client on a regular basis, at least annually, during the life of the investment.

The specific rules applicable to eligible counterparties are laid down in Chapter 5.5.2.

#### 9.1.6. Duty to supply information on commissions

When UBP pays or is paid any fee or commission, or provides or is provided with any non-monetary benefit in connection with the provision of an investment service or an ancillary service, it informs the client of the existence, nature and amount of the payment or benefit, or, where the amount cannot be ascertained, the method of calculating that amount must be clearly disclosed to the client, in a manner that is comprehensive, accurate and understandable, prior to the provision of the relevant investment or ancillary service. Where applicable, UBP shall also inform the client of mechanisms for transferring to the client the fee, commission, monetary or non-monetary benefits received in relation to the provision of the investment or ancillary service.

Where UBP receives (ongoing) benefits in connection with investment services provided to the clients, it shall inform them individually of the actual amount of the payments or advantages received or provided, at least once per year.

Please refer to the UBP General Conditions for more information on commissions.

#### 9.2. Further information

UBP shall provide detailed information on the following subject areas only upon the client's express request:

- 1) status of the order;
- 2) the price of each tranche in case the order has received subsequent partial executions and only the average price has been provided to the client.

In addition, UBP shall provide each of its clients that signed a portfolio management agreement with a statement that summarises the portfolio management activities carried out by UBP in the period agreed with the client. Unless otherwise agreed, this statement will be provided every three months.

### 10. Suitability and appropriateness test

#### 10.1. Introduction

Investment companies carry out a suitability test when providing an investment advisory service (recommendations to buy or to sell) or a portfolio management service.

When providing an investment service not covered by the portfolio management or investment advisory agreement, they assess the appropriateness of the transactions to be executed. These services include, among others:

- ◆ Receiving and transmitting buy and sale orders in one or several financial instruments;
- ◆ Executing orders on behalf of clients;
- ◆ Dealing on own account.

These tests apply only to relationships between UBP and retail clients or professional clients.

#### 10.2. Initial common appropriateness and suitability assessment

The assessment of the appropriateness or suitability of the services to be provided to the client is based on the following criteria:

- ◆ The client's investment profile (see chapter 10.2.1) and its investment objectives, including its risk tolerance;
- ◆ The client's experience and specific knowledge in the investment field relevant to the specific type of product or service;
- ◆ The client's financial capacity, including its ability to bear losses.

These criteria, in conjunction with the other information about the client and the nature and characteristics of the order, allow UBP to ensure compliance with MiFID II's due diligence requirements.

Each of the aforementioned criteria is detailed below.

#### 10.2.1. Client investment profile

When entering into business relations with a client or at any subsequent time as and when it is deemed necessary, UBP assesses the client's investment profile.

The assessment is based on the answers given by the client to a number of questions preset by UBP.

The questionnaire allows UBP to establish the client's:

- ▶ investment objectives;
- ▶ risk tolerance;
- ▶ liquidity needs;
- ▶ general knowledge of and experience with financial investments.

UBP reserves the right to adapt the contents and scope of the questionnaire at any time.

#### 10.2.2. Client's knowledge of financial products

When entering into business relations with a client, or at any subsequent time as and when it is deemed necessary, UBP assesses the client's knowledge of the following types of instruments:

##### **Non-complex products**

- ▶ Shares in companies, excluding shares in non-UCITS collective investment undertakings and shares that embed a derivative;
- ▶ Bonds or other forms of securitised debt admitted to trading on a regulated market or on an equivalent third country market or on a MTF, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
- ▶ Money-market instruments, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
- ▶ Shares or units in UCITS, excluding structured UCITS as referred to in the second subparagraph of Article 36(1) of Regulation (EU) No 583/2010;
- ▶ Structured deposits, excluding those that incorporate a structure which makes it difficult for the client to understand the risk of return or the cost of exiting the product before term;
- ▶ Other non-complex financial instruments.

##### **Complex products**

- ▶ Private equity
- ▶ Limited partnerships
- ▶ Structured products
- ▶ Options: listed, OTC and forex, including metals
- ▶ Warrants
- ▶ Futures: financial futures, commodity futures
- ▶ Convertible bonds

##### **The client is made aware that within the meaning of MiFID II:**

- ▶ Every client is presumed to know the risks involved in investments in products considered non-complex;
- ▶ Every client wishing to invest in one or several types of complex instruments must prove to UBP that they possess the necessary knowledge and experience to be able to invest in such financial products;
- ▶ The decision to give the client free access to investments in complex products lies with UBP.

### 10.2.3. Client's financial capacity

When opening an account, UBP shall obtain the necessary information for assessing the total wealth of the client and the client's capacity for disposing of it. The information regarding the client's financial situation shall include, where relevant, information on the source and extent of its regular income, assets, including liquid assets, investments and real property, and its regular financial commitments.

### 10.2.4. Client's investment objectives

When opening an account, UBP shall identify the client's investment objectives, including its risk tolerance. Information on the client's investment objectives include, where applicable, the length of time for which the client wishes to hold the investment, its risk preferences, its risk profile and the purpose of the investment.

## 10.3. Appropriateness test

### 10.3.1. Scope of the appropriateness test

Except where UBP provides an execution-only service under certain conditions, it collects information regarding the client's knowledge and experience in the investment field relevant to the specific type of product or service offered or requested.

The appropriateness test on the investment takes place in two stages:

- ▶ UBP checks that the client possesses the necessary knowledge for assessing the risks involved in the type of instrument it wishes to invest in (see Chapter 10.2.2). If this is not the case, the investment shall be considered inappropriate.
- ▶ UBP assess the quality of the financial instrument in which the client wishes to invest. Where it is manifestly incompatible with the client's known characteristics, UBP shall inform the client that the transaction is inappropriate.

For example: UBP may consider that an investment in a low-rated bond (a so-called junk bond) is inappropriate for a retail client (see Chapter 10.2.2) if that client does not have extensive knowledge of the risks of loss involved in such investments and the express desire to take on that risk.

UBP is entitled to assume that a professional client has the necessary experience, knowledge and skills in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the client is classified as a professional client.

The appropriateness test is not carried out if UBP's client is an eligible counterparty.

### 10.3.2. Normal execution

UBP shall execute or transmit an order on behalf of a client only when, on the basis of the information at its disposal, it considers that the investment is appropriate within the meaning defined above (see previous point).

Where the investment in itself is not appropriate, UBP reserves the right to execute the order if one of the following exceptions applies:

- ▶ It is an investment in derivatives intended to cover existing positions in the portfolio;
- ▶ The investment requested is not of a speculative nature and does not affect the portfolio's composition to any large extent;
- ▶ The investment, even if it pertains to a complex instrument, is intended to improve the structure of the client's portfolio.

When, on the basis of the information at its disposal,

- ▶ an investment is not compatible with the knowledge and experience of the client, or
- ▶ the transaction does not fall under one or more of the exceptions listed above,

UBP shall notify the client and, in principle, refuse execution of the order, unless the client

- ▶ by its own initiative, insists on execution, and
- ▶ waives the protection guaranteed by MiFID II.

Such a request can be made orally, in which case UBP shall confirm the order execution details in the advice provided to the client. The document is for information only and in no way constitutes grounds for addressing claims to UBP.

Regardless of the type of instrument, UBP reserves the right to consider any investment inappropriate for the client. UBP's assessment will depend on the characteristics of the investment: for this reason UBP is not required to inform the client of its reasons for refusing an investment.

### 10.3.3. Execution-only service

UBP is not required to assess the appropriateness of the transaction if the following conditions are all met:

- ▶ The investment service it provides comprises only execution and/or reception and transmission of clients' orders;
- ▶ It provides only services pertaining to non-complex financial instruments;
- ▶ The service is provided at the request of the client or potential client;
- ▶ It complies with its obligations regarding conflicts of interests.

By reading the present document, the client accepts that:

- ▶ When providing an execution-only service, UBP is not required to assess the appropriateness of an investment if the transaction fulfils the conditions set out above;
- ▶ The client is not eligible for protection under the conduct of business rules.

## 10.4. Suitability test

### 10.4.1. Scope of the suitability test

When providing investment advice or a portfolio management service, UBP shall obtain the necessary information to ensure that the transaction to be recommended or entered into satisfies the following criteria:

- ▶ it meets the investment objectives of the client in question, including its risk tolerance;
- ▶ the client is able financially to bear any related investment risks consistent with its investment objectives, including its ability to bear losses;
- ▶ the client has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of its portfolio.

Where, when providing the investment advice or portfolio management service, UBP does not obtain the information required, it shall not recommend investment services or financial instruments to the client or potential client.

#### a) Scope of the suitability test for the portfolio management service

Within the framework of a portfolio management service, UBP assesses the suitability of a service to be provided, taking into account the following criteria:

- ▶ The management profile, which is based on the client's investment profile. UBP refers to the client's characteristics to establish the client's investment profile;
- ▶ UBP shall use, within the limits of the contract, any type of financial product that it deems suitable for meeting the objectives set.

Where UBP considers an investment unsuitable, it shall refuse execution without consulting the client.

#### b) Scope of the suitability test for the investment advisory service

The investment advisory service provided by UBP shall be subject to a double preliminary check:

- ▶ UBP shall assess whether the client possesses the necessary knowledge for assessing the risks involved in the type of instrument about which the client is requesting advice (see Chapter 10.2.2).
- ▶ In light of the information relative to the client's characteristics (see chapter 10.2), UBP shall assess whether the investment the client wishes to make complies with the requirements defined above.

If the client requests investment advice:

- ▶ On a financial product about which it does not possess the necessary knowledge and/or experience, or
- ▶ On an investment that is incompatible with the client's personal characteristics (investment profile and/or capacity to take on the risk of loss),

UBP shall inform the client that it cannot provide the service. Such an order can then only be executed as an exception applicable under the "execution-only" regime (see Chapter 10.3).

#### 10.4.2. Suitability test for professional clients

It shall be assumed that a client that meets the criteria of a professional client has the necessary level of experience and knowledge for understanding and bearing any risks involved in a transaction or in the management of its portfolio in relation to the products, transactions and services for which the client is so classified.

Within the framework of the investment advisory service, a per se professional client shall be assumed to be able financially to bear any related investment risks consistent with its investment objectives.

### 11. Conflicts of interests

UBP entities provide a variety of financial services to different clients, i.e. retail clients, professional clients and eligible counterparties, and conflicts of interest may arise between one client's interests and those of other clients, counterparties or UBP itself. However, UBP shall take all appropriate steps to identify and to prevent or manage conflicts of interest.

However, the client must be aware of the following:

- ◆ UBP is not an investment bank;
- ◆ It does not focus on analysing new equity or bond issues;
- ◆ It is not involved in assessing the value of acquisitions or mergers involving listed or unlisted companies;
- ◆ None of UBP's staff serve as directors of companies in which a client directly or UBP on the client's behalf may invest, except for collective investment schemes of which UBP is the founder.

Where UBP acts in a situation where it has a material interest or which involves a conflict of interests, it shall take all reasonable steps to treat all its clients fairly and to act in their best interests.

In all the situations described below, a conflict of interest can arise while UBP is acting on behalf of its clients.

- ◆ UBP can make recommendations regarding:
  - ▶ The purchase or sale of units in collective investment schemes where UBP is the management company, the advisory company or the depository;
  - ▶ The purchase or sale of structured products issued by UBP or a third party on its behalf.
- ◆ UBP can carry out transactions in connection with which it may have a direct or indirect material interest. In particular UBP may:
  - ▶ Match the order of a client with that of another person (internal order-matching), receiving in some cases a second commission from this other person;
  - ▶ Deal with a client as a principal for its own account;
  - ▶ Arrange for a client's transaction to be executed, in full or in part, through another UBP entity or one of its agents.

With regard to order matching, UBP's EU entities have an internal policy of not matching orders in listed shares.

UBP may underwrite investments in such a way as to be in competition with a client.

UBP may act as a market-maker in a transaction or an investment held, sold, or bought for a client's account. However the client must be aware that the Bank's market-making activity is limited to settlement and therefore does not impact the price paid by the client.

Other possible conflicts of interest are described in Chapter 13.

UBP is under no obligation to disclose a material interest in a transaction with or for a client or the existence of a possible conflict of interest when it has taken all the necessary measures to manage the conflict in such a way as to reasonably believe that any risk of damage to the client's interests will be avoided.

The purpose of this chapter is to make clients aware of the existence of possible conflicts of interests and to obtain their consent to act in spite of such situations.

In accordance with its regulatory obligations, UBP has a conflict of interest policy in place.

In some situations, the measures and controls put in place by UBP may not be enough to ensure a potential or actual conflict of interest does not adversely affect the interests of a client. In such cases, UBP may disclose to the client, on a durable medium, the general nature and, where applicable, the source of these conflicts of interest before acting on the client's behalf.

## **12. Order execution policy**

UBP shall execute clients' orders in accordance with its Order Execution Policy (i.e. best execution), a copy of which has been provided to its clients.

If a client sends an order after having received information about the Order Execution Policy, UBP will interpret this as an expression of consent.

All the amendments to UBP's Order Execution Policy will be displayed on its website.

## **13. Costs and related charges**

The client is responsible for the payment of all liabilities, charges and costs incurred by UBP in the execution of a transaction or in the provision of an investment service on behalf of the client, such as custody costs, brokerage fees, settlement and exchange fees and stamp duty.

For the execution of transactions in financial instruments, UBP applies to its clients the charges listed in its internal schedule, or the charges defined in a special agreement entered into with the client.

The client must be aware that, in the provision of an investment service other than independent advice or portfolio management, UBP can pay, receive or share fees, commissions or non-monetary benefits with a person other than the client (including other UBP entities). In this case UBP shall provide its clients with information regarding the essential terms of the arrangements in place with these third parties on a product or service basis (see Chapter 9.1.6).

## **14. Rules applied by UBP in handling client orders**

### **14.1. Principles**

When executing orders on behalf of a client, UBP shall apply different rules: these rules shall change in relation to the nature of the account and the role played by the client with respect to the account.

UBP shall inform its retail clients of any serious difficulty likely to affect proper order execution as soon as it is aware of this difficulty.

### **14.2. Personal and joint accounts**

UBP checks the categorisation (retail client, professional client or eligible counterparty) and the particular knowledge and experience of the account holder who sends the order. However, the financial situation and the investment objectives are those of the represented person.

Example: X and Y are the account holders of a joint account. X sends an order for execution. UBP looks exclusively at X's personal profile to assess if the transaction is appropriate/suitable for him.

### **14.3. Collective and mixed accounts**

The financial situation and the investment objectives taken into account are those of the represented person. The knowledge and experience are those of the person authorised to carry out the transactions on behalf of the represented person.

#### 14.4. Account held by a legal entity

Where the holder of the account is a legal entity, UBP looks at its profile. However, when UBP is dealing with a small legal entity<sup>3</sup>, it has the right to check the investment profile of the director of the entity or of any other person with a power of attorney on the account, in terms of knowledge and experience. However, the entity will be taken into account when it comes to assessing the financial situation and investment objectives.

#### 14.5. Account held by an offshore company

UBP applies to offshore companies the same rules described in Chapter 14.4 for small legal entities.

Example: X, an offshore company, is the account holder. Y is the director of the offshore company. Y can freely invest in stocks, bonds and derivatives products. Y's knowledge and experience is applied to X. As a result X can invest in stocks, bonds and derivative products.

#### 14.6. Proxy

**The proxy represents the community of account holders. The financial situation and the investment objectives taken into account are those of the represented person. The knowledge and the experience are those of the person authorised to carry out transactions on behalf of the represented person.**

### 15. Update

UBP will notify its clients of changes in this document only by posting an updated version on its website.

### 16. Transitional provisions

#### 16.1. Classifying existing clients

UBP has classified its existing clients on the basis of the information in its possession. It takes into account the following criteria in identifying opt-up professional clients:

- ◆ the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;
- ◆ the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR 500,000;
- ◆ the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

#### 16.2. Notifying retail clients of their status

Retail clients shall be notified on a durable medium, and before the provision of services that falls within the scope of MiFID II.

#### 16.3. Executing existing clients' orders

UBP shall inform its existing clients that they have been assigned to a category pursuant to MiFID II and that, in accordance with this directive, they have been categorised as a retail client, professional client or eligible counterparty.

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<sup>3</sup> The document refers to the wording "small entities" as defined in Annex II of MiFID II.

## Annex I – Glossary

- ◆ **“Ancillary service”**: the following are considered ancillary services within the scope of MiFID II:
  - ▶ Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management;
  - ▶ Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;
  - ▶ Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings;
  - ▶ Foreign exchange services where these are connected to the provision of investment services;
  - ▶ Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments;
  - ▶ Services related to underwriting;
  - ▶ Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 of MiFID II related to the underlying of the derivatives where these are connected to the provision of investment or ancillary services.
- ◆ **“Branch”** means a place of business other than the head office which is a part of an investment firm, which has no legal personality and which provides investment services and/or activities and which may also perform ancillary services for which the investment firm has been authorised; all the places of business set up in the same Member State by an investment firm with headquarters in another Member State shall be regarded as a single branch.
- ◆ **“Client”** means any natural or legal person to whom an investment firm provides investment and/or ancillary services.
- ◆ **“Commodity”** means any goods of a fungible nature that are capable of being delivered, including metals and their ores and alloys, agricultural products, and energy such as electricity.
- ◆ **“Complex products”**:
  - ▶ Shares in non-UCITS collective investment undertakings;
  - ▶ Shares that embed a derivative;
  - ▶ Bonds that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
  - ▶ Money-market instruments that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
  - ▶ Shares or units in structured UCITS as referred to in the second subparagraph of Article 36(1) of Regulation (EU) No 583/2010;
  - ▶ Structured deposits that incorporate a structure which makes it difficult for the client to understand the risk of return or the cost of exiting the product before term;
  - ▶ Derivative instruments for the transfer of credit risk;
  - ▶ Financial contracts for differences;
  - ▶ Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (other than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls.
- ◆ **“Credit institutions”** means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013.
- ◆ **“Dealing on own account”** means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments.

- ◆ **“Durable medium”** means any instrument which enables a client to store information addressed personally to that client in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.
- ◆ **“Execution of orders on behalf of clients”** means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients.
- ◆ **“Group”**, in relation to an investment firm, means the group of which that firm forms a part, consisting of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a relationship within the meaning of Article 12(1) of Council Directive 83/349/EEC on consolidated accounts.
- ◆ **“Financial analyst”** means a relevant person who produces the substance of investment research.
- ◆ **“Financial instrument”** means those instruments specified in Section C of Annex I of MiFID II.
- ◆ **“Investment advice”** means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments; For the purposes of the definition of ‘investment advice’ in Article 4(1)(4) of MiFID II, a personal recommendation is a recommendation that is made to a person in his capacity as an investor or potential investor, or in his capacity as an agent for an investor or potential investor.

That recommendation must be presented as suitable for that person, or must be based on a consideration of the circumstances of that person, and must constitute a recommendation to take one of the following steps:

- a) to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular financial instrument;
- b) to exercise or not to exercise any right conferred by a particular financial instrument to buy, sell, subscribe for, exchange, or redeem a financial instrument.

A recommendation is not a personal recommendation if it is issued exclusively through distribution channels or to the public.

- ◆ **“Investment firm”** means any legal person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis.

Member States may include in the definition of investment firms undertakings which are not legal persons, provided that:

- a) their legal status ensures a level of protection for third parties’ interests equivalent to that afforded by legal persons, and
- b) they are subject to equivalent prudential supervision appropriate to their legal form.

However, where a natural person provides services involving the holding of third parties’ funds or transferable securities, he may be considered as an investment firm for the purposes of this directive only if, without prejudice to the other requirements imposed in this directive and in Regulation (EU) 600/2014, he complies with the following conditions:

- ▶ the ownership rights of third parties in instruments and funds must be safeguarded, especially in the event of the insolvency of the firm or of its proprietors, seizure, set off or any other action by creditors of the firm or of its proprietors;
- ▶ the firm must be subject to rules designed to monitor the firm’s solvency and that of its proprietors;
- ▶ the firm’s annual accounts must be audited by one or more persons empowered, under national law, to audit accounts;
- ▶ where the firm has only one owner, he must make provision for the protection of investors in the event of the firm’s cessation of business following his death, his incapacity or any other such event.

- ◆ **“Limit order”** means an order to buy or sell a financial instrument at its specified price limit or better and for a specified size.
- ◆ **“Market maker”** means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him.
- ◆ **“Market operator”** means a person or persons who manages and/or operates the business of a regulated market. The market operator may be the regulated market itself.

- ◆ **“Money-market instruments”** means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.
- ◆ **“Multilateral trading facility (MTF)”** means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with the provisions of Title II of MiFID II.
- ◆ **“Non-complex products”**:
  - ▶ shares admitted to trading on a regulated market or on an equivalent third-country market or on an MTF, where those shares are in companies, and excluding shares in non-UCITS collective investment undertakings and shares that embed a derivative;
  - ▶ bonds or other forms of securitised debt admitted to trading on a regulated market or on an equivalent third-country market or on an MTF, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
  - ▶ money-market instruments, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
  - ▶ shares or units in UCITS, excluding structured UCITS as referred to in the second subparagraph of Article 36(1) of Regulation (EU) No 583/2010;
  - ▶ structured deposits, excluding those that incorporate a structure which makes it difficult for the client to understand the risk of return or the cost of exiting the product before term;
  - ▶ other non-complex financial instruments.
- ◆ **“Normal trading hours for a trading platform or investment firm”**: the hours established in advance by said platform or firm and made public as its trading hours.
- ◆ **“Organised trading facility (OTF)”** means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of MiFID II.
- ◆ **“Outsourcing”** means an arrangement of any form between an investment firm and a service provider by which that service provider performs a process, a service or an activity which would otherwise be undertaken by the investment firm itself.
- ◆ **“Parent undertaking”** means a parent undertaking within the meaning of Articles 2(9) and 22 of Directive 2013/34/EU of the European Parliament and of the Council.
- ◆ **“Portfolio management”** means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments.
- ◆ **“Portfolio trade”** means a transaction in more than one security where those securities are grouped and traded as a single lot against a specific reference price.
- ◆ **“Professional client”** means a client meeting the criteria laid down in Annex II of MiFID II.
- ◆ **“Qualifying holding”** means a direct or indirect holding in an investment firm which represents 10% or more of the capital or of the voting rights, as set out in Articles 9 and 10 of Directive 2004/109/EC of the European Parliament and of the Council, taking into account the conditions regarding aggregation thereof laid down in Article 12(4) and (5) of that Directive, or which makes it possible to exercise a significant influence over the management of the investment firm in which that holding subsists.
- ◆ **“Regulated market”** means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its nondiscretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with the provisions of Title III of MiFID II.
- ◆ **“Retail client”** means a client that is not a professional client.

- ◆ **“Subsidiary”** means a subsidiary undertaking as defined in Articles 1 and 2 of Directive 83/349/EEC, including any subsidiary of a subsidiary undertaking of an ultimate parent undertaking.
- ◆ **“Systematic internaliser”** means an investment firm which, on an organised, frequent and systematic basis, deals on own account when executing client orders outside a regulated market, an MTF or an OTF without operating a multilateral system.
- ◆ **“Tied agent”** means a natural or legal person who, under the full and unconditional responsibility of only one investment firm on whose behalf it acts, promotes investment and/or ancillary services to clients or prospective clients, receives and transmits instructions or orders from the client in respect of investment services or financial instruments, places financial instruments and/or provides advice to clients or prospective clients in respect of those financial instruments or services.
- ◆ **“Trading venue”** means a regulated market, MTF or systematic internaliser acting in its capacity as such, and, where appropriate, a system outside the Community with similar functions to a regulated market or MTF.
- ◆ **“Transferable securities”** means those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as:
  - a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
  - b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
  - c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.
- ◆ **“Turnover”**, in relation to a financial instrument, means the sum of the results of multiplying the number of units of that instrument exchanged between buyers and sellers in a defined period of time, pursuant to transactions taking place on a trading venue or otherwise, by the unit price applicable to each such transaction.
- ◆ **“UCITS management company”** means a management company as defined in Directive 2009/65/EC.

## Annex II – Exemptions (see art. 2 MiFID II)

### 1. MiFID II does not apply to:

- a) insurance undertakings or undertakings carrying out the reinsurance and retrocession activities referred to in Directive 2009/138/EC when carrying out the activities referred to in that Directive;
- b) persons which provide investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
- c) persons providing an investment service where that service is provided in an incidental manner in the course of a professional activity and that activity is regulated by legal or regulatory provisions or a code of ethics governing the profession which do not exclude the provision of that service;
- d) persons dealing on own account in financial instruments other than commodity derivatives or emission allowances or derivatives thereof and not providing any other investment services or performing any other investment activities in financial instruments other than commodity derivatives or emission allowances or derivatives thereof unless such persons are market makers; are members of or participants in a regulated market or an MTF or have direct electronic access to a trading venue; apply a high-frequency algorithmic trading technique; or deal on own account when executing client orders;
- e) operators with compliance obligations under Directive 2003/87/EC who, when dealing in emission allowances, do not execute client orders and who do not provide any investment services or perform any investment activities other than dealing on own account, provided that those persons do not apply a high-frequency algorithmic trading technique;
- f) persons providing investment services which only involve both the administration of employee-participation schemes and the provision of investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
- g) persons who provide investment services consisting exclusively in the administration of employee-participation schemes;
- h) persons who provide investment services which only involve both administration of employee-participation schemes and the provision of investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
- i) the members of the European System of Central Banks and other national bodies performing similar functions and other public bodies charged with or intervening in the management of the public debt;
- j) collective investment undertakings and pension funds whether coordinated at Community level or not and the depositaries and managers of such undertakings;
- k) persons dealing on own account, including market makers, in commodity derivatives or emission allowances or derivatives thereof, excluding persons who deal on own account when executing client orders; or providing investment services, other than dealing on own account, in commodity derivatives or emission allowances or derivatives thereof to the customers or suppliers of their main business, under certain conditions;
- l) persons providing investment advice in the course of providing another professional activity not covered by this Directive provided that the provision of such advice is not specifically remunerated;
- m) associations set up by Danish and Finnish pension funds with the sole aim of managing the assets of pension funds that are members of those associations;
- n) “agenti di cambio” whose activities and functions are governed by Article 201 of Italian Legislative Decree No 58 of 24 February 1998.

2. The rights conferred by this Directive shall not extend to the provision of services as counterparty in transactions carried out by public bodies dealing with public debt or by members of the European System of Central Banks performing their tasks as provided for by the Treaty and the Statute of the European System of Central Banks and of the European Central Bank or performing equivalent functions under national provisions.
3. In order to take account of developments on financial markets and to ensure the uniform application of this Directive, the Commission, acting in accordance with the procedure referred to in Article 64(2), may, in respect of exemptions (c), (i), and (k) define the criteria for determining when an activity is to be considered as ancillary to the main business on a group level as well as for determining when an activity is provided in an incidental manner.





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Union Bancaire Privée is incorporated in Geneva, Switzerland, as a limited liability company.