

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

This Memorandum of Understanding (hereinafter, “MoU”) is made BETWEEN

- the National Bank of Belgium (hereafter, “NBB”) and the
- Central Bank of Ireland (hereafter, “CBI”)

hereinafter referred to individually as “a Signatory Authority” or jointly as “the Signatory Authorities”.

INTRODUCTION

The Irish securities market has no domestic securities settlement infrastructure and utilises settlement systems located in different European countries, primarily Euroclear Bank (hereafter, “EB”). Irish Government bonds are issued and settled in EB since 2002. From March 2021, the vast majority of corporate securities and a large proportion of Exchange Traded Funds (ETFs) are also issued and settled in EB. Securities are deposited with EB in accordance with the law of constitution of the security and subsequent book-entry transfers in the Euroclear System are governed by Belgian law. Pursuant to such deposit, EB participants are granted rights under Belgian law, pursuant to Belgian Royal Decree No. 62 (RD 62) (Belgian Law Rights).

Taking into account the situation of the Irish securities market, the Signatory Authorities acknowledge that the activities of EB are of substantial importance to the functioning of the securities market and the protection of the investors in Ireland under Article 24 (4) of the CSD Regulation (hereafter, “CSDR”).

The CBI maintains the register for Irish Government bonds, which are issued by the National Treasury Management Agency (NTMA). The interest of the CBI in EB's functioning relates to the settlement of aforementioned Irish government bonds, the settlement of Irish corporate securities and the CBI's designation as the national competent authority responsible for carrying out the functions of a competent authority referred to in the CSDR.

This MoU updates and replaces the Memorandum of Understanding on co-operation relating to the oversight of the system operated by EB between the NBB and CBI, dated 14 May 2012.

I. LEGAL BASIS FOR THE INVOLVEMENT OF THE SIGNATORY AUTHORITIES

1.1. National Bank of Belgium (NBB)

- Prudential supervision

Central Securities Depositories (“CSD”): According to Article 36/26/1, §1 of the NBB Organic Law, the NBB is the national competent authority responsible for the supervision (including authorisation) of Belgian Central Securities Depositories (like Euroclear Bank).

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

- Oversight

Based on Article 8 of the NBB Organic Law, the NBB is also responsible for the oversight of securities settlement systems to ensure that they operate properly and to make certain that they are

efficient and sound following international standards such as the April 2012 CPMI-IOSCO Principles for Financial Market Infrastructures (PFMIs). The NBB oversees securities settlement systems operated by Belgian CSDs.

1.2. Central Bank of Ireland

- Prudential supervision

Statutory Instrument No. 481/2016, the European Union (Central Securities Depositories) Regulations 2016¹ (the CSD Irish Regulations), entered into force in 2016 and gives the CBI the role of national competent authority responsible for carrying out the functions of a competent authority referred to in Regulation 909/2014/EU (the CSD Regulation), including as competent authority of the host Member State as referred to in Article 24 (4).

- Oversight

From an oversight perspective, the CBI derives an interest in the functioning of EB from the Central Bank Act 1942² (the 1942 Act) and the Central Bank Act 1997³ (the 1997 Act) which reference: that the Bank has the objective of the efficient and effective operation of payment and settlement systems (Section 6A(2)(c) of the 1942 Act). Responsibility E of the CPMI IOSCO Principles for Financial Market Infrastructure on cooperation with other authorities is also relevant.

II. NATURE OF THE MEMORANDUM OF UNDERSTANDING

1. This MoU reflects the common understanding between the NBB and CBI as to the specific arrangements to be established for organizing the cooperation between them. It does not constitute a legally binding and/or legally enforceable agreement. In particular, it does not: (i) create any right or obligations for any of the Signatory Authorities or third parties; (ii) modify or supersede any laws, regulations or requirements in force or applying to the Signatory Authorities; and (iii) represent a waiver to the immunity or otherwise act as the basis for any claim in tort. Neither a Signatory Authority or a third party can bear or seek any liability regarding the performance of this MoU.

2. The Signatory Authorities recognise that the cooperation and the exchange of relevant information under this MoU is subject to the respective applicable legal framework of the Signatory Authorities and should not interfere with their statutory tasks.

¹ <https://www.irishstatutebook.ie/eli/2016/si/481/made/en/print>

² <https://www.irishstatutebook.ie/eli/1942/act/22/enacted/en/html>

³ <https://www.irishstatutebook.ie/eli/1997/act/8/enacted/en/html>

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

3. Each Signatory Authority remains solely and fully responsible for the proper execution of its respective competencies, tasks and duties under its applicable national law. The Signatory Authorities recognise that the interaction contemplated in this MoU must be compliant with the laws which establish the Signatory Authorities and which govern their powers, capacities and responsibilities.

III. PURPOSE

1. The purpose of this MoU is to ensure the comprehensive and effective delivery of the Signatory Authorities oversight and supervision mandate with respect to EB.

IV. COOPERATION AND EXCHANGE OF INFORMATION

1. The Signatory Authorities intend to cooperate closely, including by exchanging any relevant information, concerning EB.

2. For the purpose of this MoU, relevant information means any information provided by a Signatory Authority that is necessary for the exercise of another Signatory Authority's supervisory tasks or responsibilities as stipulated in Section I, and pertaining to the scope as provided in paragraph 3 and 4.

3. The scope of the relevant information to be shared includes, but is not limited to the following topics:

- The outcome of relevant supervisory assessments conducted by the NBB as competent authority of EB
- Any major change in the corporate structure of EB
- Any major change in the composition of the Management Committee of EB
- Any major reorganisation within EB
- Any major strategic decision relating to EB's activities.
- Any material changes in the legal, regulatory and supervisory arrangements for EB

4. The relevant information exchanged includes the following statistical data to be provided on a regular basis :

- Monthly
 - o Daily data on settlement fails
- Twice a year
 - o System availability
 - o Overview of material incidents

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

- Annually
 - o EB's organisational structure and key responsibilities, including the management structure chart.
 - o Reporting against CSDR capital requirements

5. This MoU does not apply to the exchange of relevant information, including statistical data, that the NBB as home authority should provide in accordance with the CSDR, and related technical standards, upon request from CBI as competent authority of the host Member State.

6. Ad-hoc data requests outside those mentioned in IV.4 may be made subject to agreement by both Signatory Authorities.

V. PRACTICAL ARRANGEMENTS

- Meetings' planning and scope

At least once a year, a meeting between the Signatory Authorities will be held to discuss the outcome of the supervisory plan. Should any issues of concern arise in the course of the year, additional ad-hoc contacts may be made at the request of either Signatory Authority.

The NBB will provide the CBI with an advance notification of its annual supervisory plan for EB. The CBI can suggest items, relevant for the settlement of Irish government bonds, equities and ETFs for inclusion in this plan.

- Secretariat

In order to avoid EB being submitted to double or inconsistent queries or requirements, the NBB will act as the single contact point to EB.

For the exchange of confidential information, the Signatory Authorities are committed to use a secure channel provided by the NBB in its role of Secretariat.

VI. COOPERATION IN CRISIS SITUATIONS

The Signatory Authorities agree to establish a commonly agreed crisis communication procedure (the Crisis Communication Framework) to enable a coordinated approach in situations of crisis or potential crisis with cross-border or potential cross-border impact.

The Crisis Communication Framework is documented by the Signatory Authorities in a separate commonly agreed crisis management guide and reviewed on a yearly basis. They will contain a list of major crisis events upon which the NBB shall promptly inform the CBI.

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

The Signatory Authorities will exchange a list of contact persons.

The Crisis Communication Framework between the Signatories will form an integral part of this MoU. In the event of conflict or inconsistency between the content of this MoU and the Crisis Communication Framework, the MoU shall prevail.

VII. CONFIDENTIALITY

7.1. Confidential information

All non-public information shared between the Signatory Authorities pursuant to this MoU shall be treated as confidential (hereinafter "the confidential information") and shall be subject to the respective provisions of confidentiality and professional secrecy of the Signatory Authorities, as they are applicable to them.

7.1.1. NBB

In accordance with Article 35 of the NBB Organic Law, except when called upon to give evidence in court in a criminal case, the NBB and its members and former members of its organs and its staff shall be subject to professional secrecy and may not divulge to any person or authority whatsoever confidential information of which they have had knowledge on account of their duties. This shall not preclude the communication of confidential information to third parties in cases laid down by or by virtue of Belgian law.

7.1.2 Central Bank of Ireland

Pursuant to Section 33AK (1A) of the 1942 Act, the CBI may not disclose confidential information concerning:

- (a) the business of any person or body whether corporate or incorporate that has come to the person's knowledge through the person's office or employment with the CBI, or
- (b) any matter arising in connection with the performance of the functions of the CBI or the exercise of its powers,

if such disclosure is prohibited by the Rome Treaty, the ESCB Statute or the supervisory EU legal acts.

The CSD Regulation is a supervisory EU legal act subject to the confidentiality restrictions set out at Section 33AK(1A) of the 1942 Act. The CBI may disclose confidential information relating to the CSD Regulation in accordance with the CSD Regulation, the CSD Irish Regulations and the 1942 Act.

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

7.2. Information sharing

1. The Signatory Authorities acknowledge that any confidential information shared on the basis of this MoU is intended to be used exclusively for the purpose of carrying out the legal duties and responsibilities of the Signatory Authorities and more particularly to discharge their duties, supervisory responsibilities or statutory tasks under their applicable frameworks.
2. The Signatory Authorities will ensure that all persons dealing with, or having access to confidential information provided by another Signatory Authority (including members of the Authority, employees, and any external providers having access to confidential information) are bound by the obligations of professional secrecy in compliance with their applicable legal frameworks, including after the termination of their duties.
3. Except as provided in paragraph 4, Signatory Authorities shall endeavour to maintain the confidentiality of all information and shall not disclose information received under this MoU to third parties before obtaining the prior consent from the Signatory Authority that provided the information. Before disclosing the confidential information to such a third party, the receiving Signatory Authority will obtain a commitment from that party that information will be kept confidential and not further disclosed to any other party.
4. If a receiving Signatory Authority is required by law or a legally enforceable request to disclose confidential information provided under this MoU to a third party, it will, to the extent permitted by law, inform the Signatory Authority that provided the information about such possible onward sharing. If the Signatory Authority that provided the information does object to such disclosure, then, the receiving Signatory Authority will take all reasonable steps, to the extent permitted by the laws and regulations applicable to it, to assert legal exemptions or privileges from disclosure and by advising the third party requiring such information of the possible negative consequences that such disclosure might have on the future exchange of confidential information between the Signatory Authorities.
5. The Signatory Authorities will ensure the confidentiality of exchange of information and any matter arising under this MoU, as well as the protection of personal data contained in such exchange of information. The Signatory Authorities process any personal data contained in the information in accordance with the data protection legislation applying to the Signatory Authorities and act as independent controllers when processing the personal data. As such each Signatory Authority is solely responsible for implementing appropriate technical and organisational measures to ensure an adequate level of security of the exchanged personal data; as far as necessary, providing the data subjects with all legally required information about the processing of their personal data – including the transfer of their personal data to the other Signatory Authorities – and their rights; and handling requests from data subjects exercising their rights.
6. No privileges or confidentiality associated with information provided by a Signatory Authority are intended to be waived as a result of sharing such information pursuant to this MoU.

Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

VIII. GENERAL PROVISIONS

8.1 Amendments

This MoU may be amended by the mutual consent of both Signatory Authorities.

The Signatory Authorities shall, in the light of their experience gained, review this MoU and the crisis communication framework as referred to in Section VI on a yearly basis. The Signatory Authorities will consult when necessary with a view to improving its operation and resolving any issues arising.

8.2 Entry into Force/Termination

This MoU will come into force as of the date of the last signature by one of the Signatory Authorities.

This MoU shall remain into force until terminated in writing by one of the Signatory Authorities, giving 30 days advance written notice to the other Signatory Authority.

All information provided under this MoU shall remain subject to the confidentiality provisions set out in Section VII after termination of the MoU, whether in respect of all or any of the Signatory Authorities.

8.3 Disclosure

This MoU can be publicly disclosed at the initiative of the Signatory Authority or when such disclosure is required by applicable local law.

Whenever this MoU is not disclosed in its entirety, the related text shall be submitted to the approval of all Signatory Authorities before disclosure.

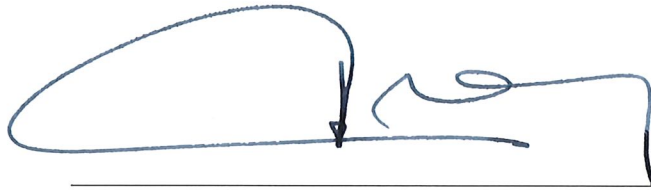
Memorandum of Understanding on the co-operation and exchange of information with regard to Euroclear Bank

SIGNATORY AUTHORITIES

1. Nationale Bank van België (NBB) / Banque Nationale de Belgique (BNB)

Name / function: Tim Hermans / Executive Director - Secretary

Signature:

A handwritten signature in blue ink, consisting of a large loop followed by a series of smaller loops and a final vertical stroke, positioned above a horizontal line.

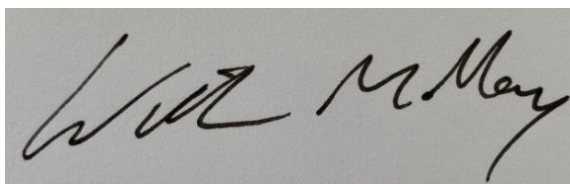
Place and date: Brussels, 23 December 2021

Memorandum of Understanding on the co-operation and exchange
of information with regard to Euroclear Bank

2. Central Bank of Ireland

Name / function: William Molloy, Director of Financial Operations

Signature:

A handwritten signature in black ink, appearing to read 'W Molloy', on a light grey background.

Place and date: Dublin, 13 December, 2021