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PRESS RELEASE

The NBB and the FSMA clarify the regulatory framework of EEA banks which operate in Belgium based on the freedom to provide services (especially internet banks without a permanent establishment in Belgium).

The NBB (National Bank of Belgium) and the FSMA (Financial Services and Markets Authority) wish to clarify the regulatory framework of banks from other Member States of the European Economic Area ('EEA') which provide banking services in Belgium based on the European legal principle of the freedom to provide services. The last few years Belgium has seen, as in other countries of the European Union, an increase in banking activities under the freedom to provide services, including the collection of retail deposits. Most of these banks are internet banks without a permanent establishment in Belgium, which sometimes offer high interest rates on their savings deposits.

The NBB and the FSMA wish to clarify two dimensions of the regulatory framework.

Firstly, the prudential supervision of these banks is carried out by the supervisory authority of the home member state, and not by the supervisory authority of the host member state. Therefore, the NBB has no prudential competence with regard to these banks. The supervisory authority of the home member state must also verify whether or not the provisions of the freedom to provide services, such as approaching clients without a permanent establishment or representation in Belgium, are respected.

Secondly, the deposit guarantee legislation of the home member state is also applicable to these banks, and not that of the host member state. If deposits from Belgian private individuals or SMEs deposited at an EEA bank operating in Belgium within the framework of the freedom to provide services, are no longer available as a result of, for instance, the failure of this bank, it is not the Belgian Guarantee Fund which will be responsible for paying out the equivalent of (maximum 100,000 euros of) these deposits.

The clients who entrust their deposits to banks which carry out banking activities in Belgium under the freedom to provide services, must assess the financial position of these banks, with due account for this supervisory framework.

The saver can thus verify the creditworthiness of the relevant bank, using the latest financial statements of the bank or the credit assessments by external parties, for instance by means of "ratings"¹. In this regard, an internet bank can certainly be expected to publish its latest financial statements on its website.

¹ For more information on the ratings of credit institutions:
<http://www.wikifin.be/fr/thematiques/epargner-et-investir/questions-cles/notation>.

In addition, credit institutions shall, under the prevailing deposit guarantee directive², inform potential savers in a readily comprehensible form of the deposit guarantee scheme in which the credit institution takes part, including the amount for which the deposits are covered. This information shall be provided before concluding the deposit contract. As from the transposition of the revised deposit guarantee directive³, the potential savers will receive this information in the form of a standardized document. The depositor will have to acknowledge receipt of that information. Existing depositors will be informed of these facts through their statements of accounts. If the bank provides its services from another EEA member state, the supervisory authority of that other member state shall be responsible for the supervision of these information obligations.

Finally, reference can be made to the websites of the deposit guarantee schemes applicable in the EEA member states⁴.

² Directive EP and Council, no 94/19/EC, 30 May 1994 on deposit-guarantee schemes, *OJ L*. 31 May 1994, part 135, 5, as amended by Directives 2005/1/EC and 2009/14/EC.

³ Directive EP and Council, no 2014/49/EU, 16 April 2014 on deposit-guarantee schemes, *OJ L*. 12 June 2014, part 173, 149. The Member States must have transposed this directive by 3 July 2015.

⁴ www.efdi.eu/index.php?id=7.