

## General information on MiFID II

Valid from 1 December 2018

### Introduction

Since November 2007, investment business in Europe has been governed by the Markets in Financial Instruments Directive (MiFID). The European Union (EU) amended this Directive at the start of 2014 in response to changes in market structures, innovations in the financial markets and the fallout from the financial crisis. The revised version, MiFID II, is intended to achieve greater market transparency, enhance the efficiency and integrity of the financial markets and address the loopholes in MiFID I.

As a member of the European Economic Area (EEA), Liechtenstein is obliged to transpose these EU rules into national law. The rules will primarily be adopted through amendments to the Liechtenstein Act of 21 October 1992 on Banks and Investment Firms (Gesetz vom 21. Oktober 1992 über die Banken und Wertpapierfirmen, Bankengesetz, BankG – “Banking Act”), the implementing Ordinance on Banks and Investment Firms (Verordnung über die Banken und Wertpapierfirmen, Bankenverordnung, BankV – “Banking Ordinance”) and the Asset Management Act (Vermögensverwaltungsgesetz, VVG).

### Objective, purpose and contents of this brochure

The Liechtenstein Banking Act and implementing Banking Ordinance require banks which provide investment services and/or ancillary services to provide detailed information to clients on the new rules applying to products and services supplied by them. This brochure provides an overview of the Bank and its services in connection with the performance of investment services. This brochure focuses on the categorisation and classification of clients and the investment services and financial instruments supplied by the Bank.

This brochure does not claim to give a comprehensive account of all aspects of the investment business. Where necessary, this brochure refers to other documents which the Bank has previously supplied to you or which may be obtained free of charge from the Bank. The table of contents and comprehensive keyword index appended to the document serve as a handy quick reference guide. Please read this brochure carefully and let us know if you have any questions.

This brochure contains a number of technical terms and expressions, which are based on the terminology used in the legislation. Where appropriate, we explain these terms in footnotes or refer to the relevant legislation.

In the interests of clarity, we reserve the right to inform you only of material amendments to the new MiFID II rules.



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## **1. General information**

### **1.1 Information on the bank**

Bank Frick AG (hereinafter referred to as the “Bank”) has its registered office at the following address:  
Landstrasse 14, 9496 Balzers, Liechtenstein

The Bank is registered as a bank with the legal form of a public limited company in the public register of Liechtenstein. The Bank is licensed to operate as a bank by the Liechtenstein Financial Market Authority (FMA), Landstrasse 109, PO Box 279, 9490 Vaduz, Liechtenstein, and is regulated by the FMA.

The Bank is a member of the Liechtenstein Bankers Association and the Liechtenstein Deposit Guarantee and Investor Compensation Foundation PCC set up to protect client deposits. The scope of the liabilities protected by the Deposit Guarantee and Investor Compensation Foundation PCC and further information can be found on its website at [www.eas-liechtenstein.li](http://www.eas-liechtenstein.li).

Further information on the organisation and structure of the Bank can be found in the Annual Report, which can be accessed on the Bank's website ([www.bankfrick.li](http://www.bankfrick.li)) or supplied by post upon request.

### **1.2 Language and method of communication**

German is the authoritative language applying to the contractual relationship between the Bank and our clients. However, you may communicate with us in English at any time or in any other language that we have agreed with you. Agreements and other documents are usually provided in German, unless otherwise agreed between the Bank and the client.

The Bank will normally communicate with you by letter or, alternatively, through electronic channels (website and e-banking) where this has been agreed. Any orders or notifications provided by you to the Bank by telephone, fax or e-mail or via e-banking will only be accepted on the basis of a separate written agreement. If there is such an agreement enabling you to contact the Bank through any of the relevant communication channels, the Bank reserves the right to contact you by the same means.

### **1.3 Recording telephone calls and electronic communication**

We are required by law to record telephone calls and electronic communications relating to the acceptance, transmission and execution of orders which involve financial instruments or investment services and ancillary services, and to retain such telephone calls and electronic communications for a period of five years and, where requested by the competent authority, for a period of up to seven years. During this period, we will provide you with copies of such recordings upon request. The rules governing telephone calls and electronic communications also apply to any authorised agent acting on your behalf.

### **1.4 Disclosure of regulatory rules**

Where feasible and appropriate, the Bank will use the technical communication options available on its website or e-banking platform to enable it to provide the required information and product documents efficiently and effectively in line with the regulatory rules.

## **2. Contractual provisions and terms and conditions of business**

The rights and obligations applying to you and the Bank in relation to the performance of investment services and/or ancillary services are set out in the relevant agreements and terms and conditions of business. In particular, the General Business Conditions, including the Safe Custody Regulations, of the Bank will apply. This brochure is intended to provide supplementary information.

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## **3. Client classification**

### **3.1 Categorisation by the Bank**

On opening an account, clients will be advised whether they are categorised as a “non-professional client”, “professional client” or “eligible counterparty”. However, existing clients will only be notified of any reclassification.

Banks are required to assign their clients to one of the above categories in accordance with the specific criteria laid down by law. The classification regime is designed to ensure that clients are treated in a way that is appropriate to their level of knowledge and experience of trading in financial instruments as well as to the type, frequency and scope of such transactions.

#### **3.1.1 Non-professional client**

The Bank will classify you as a non-professional client (or “retail client” or “private investor”) if you do not qualify as a professional client or eligible counterparty. This classification affords you with the highest level of protection provided under law.

#### **3.1.2 Professional client**

You or your business must meet the criteria laid down in the Liechtenstein Banking Act to be classified as a professional client by the Bank. A lower level of protection is afforded to professional clients than to non-professional clients. The Bank is entitled to assume that any parties acting for professional clients, unlike non-professional clients, have sufficient experience, knowledge and expertise to make investment decisions and to properly assess the risks involved.

#### **3.1.3 Eligible counterparty**

In accordance with the Liechtenstein Banking Act, only regulated legal entities, major companies, governments, local authorities, public bodies dealing with public debt, central banks and international or supranational organisations are deemed to be eligible counterparties. This category has the lowest level of protection. With this category of client, the Bank is also entitled to assume that the acting parties have sufficient experience, knowledge and expertise to make investment decisions and to properly assess the risks involved. Moreover, the Bank does not provide investment advisory or asset management services to such clients. If a client classified as an eligible counterparty wishes nonetheless to use such services, the Bank will treat that client like a professional client.

### **3.2 Reclassification**

You have the option to request a change of classification by writing to the Bank. Please note that any change of classification involves a change in the level of protection afforded to you by law. You should also be aware that the Bank may only agree to such reclassification if you meet the specific criteria laid down in Annex 7.2 to the Liechtenstein Banking Ordinance (Annex II of MiFID II). Accordingly, the Bank may only reclassify non-professional clients as professional clients if they meet at least two of the following criteria. The client must

- have carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;
- have a financial instrument portfolio, defined as including cash deposits and financial instruments, with a value exceeding EUR 500,000 or the equivalent; 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.

Non-professional clients seeking reclassification as professional clients must apply in writing to the Bank. The Bank will be happy to assist you. Your personal advisor will be happy to explain the exact procedure and effects of reclassification.

Please note that, in general, the Bank only undertakes reclassifications in relation to all investment services, ancillary services and financial instruments.

The Bank must, of its own accord, adjust the client category to which you have been assigned if it establishes that you no longer meet the criteria for the category concerned. The Bank will inform you of any such adjustment immediately. You are also responsible for informing the Bank if you no longer meet any of the criteria.

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## **4. Information on the investment services and financial instruments offered by the Bank**

### **4.1 Financial instruments**

Trading in financial instruments<sup>1</sup> carries financial risks. These risks will vary considerably, depending on the financial instrument involved. In general terms, a distinction is made between non-complex and complex financial instruments. The various types of financial instrument and the associated risks are explained in greater detail in the brochure entitled "Risks in securities trading".

### **4.2 Investment services and ancillary services**

The Bank provides a range of investment services and ancillary services<sup>2</sup> relating, in particular, to the purchase and sale of financial instruments and the safekeeping of securities. The Bank uses external asset managers to carry out buy and sell transactions either on an execution-only basis (non-advisory transaction) or in the context of its investment advisory or asset management services (also termed "portfolio management services").

#### **4.2.1 Execution-only**

Until now, buy and sell transactions undertaken at your request which relate to non-complex financial instruments<sup>3</sup> have been carried out on an execution-only basis.

<sup>1</sup> Please see the definition of "Financial instrument" in section C of Annex 2 to the Liechtenstein Banking Act.

<sup>2</sup> Sections A and B of Annex 2 to the Liechtenstein Banking Act contain an extensive list of investment and ancillary services.

<sup>3</sup> Please see the definition of "Non-complex financial instrument" in section B of Annex 2 to the Liechtenstein Banking Act.

MiFID II prohibits execution-only services in the case of Lombard lending without a credit limit, derivatives structures and structures that make it difficult for clients to understand the risks involved.

Execution-only services are permitted for the following financial instruments:

- Shares admitted to trading
- Bonds and other types of debt instrument admitted to trading
- Money market instruments
- UCITS (excluding AIFs and structured UCITS)
- Structured deposits
- Other non-complex financial instruments

The Bank must initially categorise any other securities as non-complex.

#### 4.2.2 Third-party investment advisory and asset management services

The Bank does not itself provide investment advisory or asset management services. However, it has close working relationships with external professional investment advisors and asset managers. This flexibility gives you the ability to select the investment specialist best suited to your needs.

The Bank does not provide periodic assessments of the suitability of the financial instruments recommended to clients (suitability tests) by external asset managers.

As defined by the Bank, asset management services involve managing financial instruments on an individual or aggregated basis (portfolio) on behalf of individual clients in accordance with the investment strategy agreed between clients and external asset managers. On appointing an external asset manager, clients delegate authority to make investment decisions to the asset manager. The Bank executes buy and sell orders issued by the asset manager without assessing whether the financial instruments concerned are suitable for the client. The Bank is entitled to assume that the asset manager is acting in the client's best interests. As a result, investment advisors and asset managers are required by law to obtain various items of information from clients receiving investment advisory or asset management services. This includes, where relevant, information regarding:

1. Your **knowledge and experience of investing**, including:  
details of the type of services, transactions and financial instruments with which you are familiar;  
the type, scope and frequency of transactions involving financial instruments carried out by you;  
and your educational background and occupation and any previous professional activity.
2. Your **investment objectives**, including:  
details of the investment purposes envisaged, the investment time horizon, your risk appetite,  
risk profile and risk tolerance.
3. Your **financial situation**, including:  
information on the source and extent of any regular income and regular financial commitments;  
your total assets, including liquid assets and real estate; and your ability to bear losses.

Obtaining this information allows the Bank to recommend investment services and ancillary services that are right for you.

If you have been categorised as a professional client, the Bank will assume that you possess the necessary knowledge and experience. If you are considered to be a professional client (see section 1 of Annex II to MiFID II), the Bank may also assume, for the purposes of providing investment advisory services, that you are able financially to bear any risks associated with the transaction.

In order to establish the experience and knowledge of legal entities, the Bank will assess the experience and knowledge of the individuals who are authorised to act for the legal entity in relation to the Bank and to make investment decisions on the entity's behalf. In consultation with these individuals, insofar as is practicable, the Bank will draw up a coherent profile of the legal entity as whole, including information on relevant knowledge and experience. If this is not practicable, a separate profile detailing the knowledge and experience of any other officers or agents authorised to make investment decisions will be drawn up. If several profiles are drawn up, this will mean that the authorised decision-makers will not all be able to deal in the same financial instruments.

Where powers of representation have been granted, the Bank will assess the knowledge and experience of the person dealing with the Bank. If it is in any doubt, the Bank will, for your protection, base its assessment on the person who has less knowledge and experience with respect to the risks associated with the transaction in question.

In making its assessment, the Bank will rely on information provided by you and is entitled to assume that such information is accurate. If you fail to provide the requisite information to the Bank, or the information you provide is inadequate, the Bank will not be able to draw up an investment profile that reflects your circumstances. It is therefore in your interests to supply to the Bank the information it requires.

#### 4.2.3 Non-advisory transaction

The Bank will carry out buy or sell transactions which are executed other than in the context of providing investment advisory, asset management or execution-only services on a non-advisory basis. In this case, the Bank is also required by law to obtain information on your knowledge and experience in the investment field, in order to assess whether, on the basis of your experience and knowledge, you are able to understand the risks associated with the service or financial instrument concerned (appropriateness test). However, the Bank will not assess whether you are able financially to bear the investment risks associated with the service or financial instrument or the extent to which this matches your investment objectives.

If you have been categorised as a professional client or eligible counterparty, the Bank will assume that you have the necessary knowledge and experience in order to understand the risks associated with the service or financial instrument concerned.

If in conducting the appropriateness test, the Bank establishes that the service or financial instrument is not appropriate for you, or the Bank does not have all the information it needs in order to assess appropriateness, you will receive a warning to this effect. If the Bank is unable to reach you for the purposes of issuing such a warning, either because you prefer not to be contacted by the Bank or because the Bank cannot contact you at short notice, the Bank reserves the right, if in doubt, not to execute the order for your protection<sup>4</sup>.

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## 5. Execution policy

In performing all investment and ancillary services, the Bank acts honestly, fairly and professionally and in the best interests of clients. The Bank takes all measures it believes necessary to obtain best execution in relation to client orders, having due regard to the various client categories. The Bank has issued information setting out its best-execution policies in relation to client orders involving financial instruments.

<sup>4</sup> See also the General Business Conditions of the Bank.

### **Execution of orders**

In the capacity of custodian, the Bank forwards any orders received immediately in accordance with the client's instructions for execution (market or limit order, stock exchange, etc.) to one of its brokers with a view to obtaining best execution for the client. Please refer to the best-execution policies of our brokers, Credit Suisse and UBS.

### **Execution policy for orders involving financial instruments (best execution)**

The following policies apply to the execution of orders issued to us by clients for the purpose of buying or selling securities or other financial instruments (e.g. options). In this case, execution involves conducting a suitable trade with another party, based on the order, on behalf of the client (commission transaction). This policy only applies to a limited extent if we and the client have entered into a direct contract of sale for financial instruments at a fixed or determinable price (fixed-price transaction). This policy does not apply to issues of units in investment undertakings at the issue price or redemptions of units at the redemption price by the relevant custodian bank. The following principles will also apply in the event that we purchase or sell financial instruments on the client's behalf in performing our obligations under an asset management agreement with the client.

### **Special market conditions**

We may be required to diverge from the policy laid down due to exceptional market conditions or market disruptions. In these circumstances, we will act in the client's interests to the best of our knowledge and belief.

### **Divergence from policy to obtain better execution for the client in specific circumstances**

We may diverge from our policy to execute client orders immediately if, in the particular circumstances, this would achieve a more favourable outcome for the client, for example by processing orders to avoid market disruption.

### **Pooling**

Situations often arise where several clients want to buy or sell the same security on the same day. As a general rule, client orders must be treated fairly and equitably, giving priority to the interests of clients in cases of doubt. In practice, this means that orders will be executed in the order in which they are received. However, we reserve the right to execute multiple orders together, provided this does not adversely affect the client overall. Pooling orders may be advantageous or detrimental to specific orders.

### **Fixed-price transactions**

We do not execute client orders relating to fixed-price transactions in accordance with the principles set out above. Under the applicable contract, we are merely required to deliver the financial instruments due to the client and transfer title to the buyer in consideration of payment of the stipulated purchase price. The same applies in respect of securities offered for subscription as part of a public or private offering or agreements with clients relating to financial instruments (e.g. option transactions) that are not tradable on the stock exchange.



### **Regular review**

We will review the execution policy based on the principles set out above at regular intervals or, as a minimum, on an annual basis, in order to establish whether the policy still results in the execution of client orders on the best possible terms. If the review indicates that the stated principles need to be amended, we will amend the policy accordingly. We will duly inform clients of any material changes.

### **Fund units**

This best-execution policy does not apply to issues of units in investment undertakings at the issue price or redemptions of units at the redemption price (primary transactions).

As a general rule, we execute orders for the purchase or sale of fund units in accordance with the rules applying to the fund in question. The principles applying to equities also apply to exchange-traded funds (ETFs).

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## **6. Charges and incidental costs applying to investment and ancillary services**

The charges and incidental costs applying to investment and ancillary services are as set out in the Bank's general Schedule of Fees and Charges. The Bank will disclose the charges and any incidental costs applying to investment and ancillary services as well as the charges and incidental costs payable in consideration of structuring and managing financial instruments. The Bank will provide an illustration showing how the total charges impact on returns. The rules governing cost transparency also apply, in general, to professional clients. Any advance information the Bank provides with respect to costs (ex ante) is intended as an estimate only. Information on the actual costs incurred will be supplied once a year on an ex post basis and may differ from the ex ante estimate. In producing its ex post statement of costs, the Bank relies on data supplied by product providers and information service providers. These may use different reporting dates, different rates (e.g. daily mid-market prices, stock exchange closing prices) and different conversion rates and dates for foreign currencies. As a result, discrepancies as well as settlement and rounding differences may occur.

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## **7. Principles on dealing with potential conflicts of interest**

The Bank has implemented a range of measures to prevent any conflicts arising between your interests and the interests of the Bank, its employees or other clients. The Bank has supplied information to you outlining its policy on dealing with conflicts of interest.

## **8. Client statements and reports**

The Bank will issue settlement advice (a transaction statement) to you immediately on executing investment transactions on your behalf. Prior to executing your order we will only inform you of its execution status if you have expressly requested us to do so or if there are problems in executing the order. The Bank will send you statements itemising the financial instruments held on your behalf (safe custody account statement) at regular intervals, usually at the end of the year, unless such an itemisation has already been issued to you as part of another periodic statement. The Bank will issue additional statements to you if specifically requested to do so, subject to any special agreements to the contrary.

The Bank will supply regular client reports on a durable medium indicating the transactions carried out. These are generally issued every three months at the end of a calendar quarter. If you receive individual investment notifications, a report will be provided once every 12 months at the start of the year. If you have a credit-financed portfolio under an asset management agreement you will receive a report at the end of each month.

As part of its asset management services, the Bank will issue a loss threshold report if the total value of your portfolio falls by 10 %, and also if the value subsequently decreases by a further 10 %.

The same applies to private client accounts that include positions involving credit-financed financial instruments or transactions involving contingent liabilities (if financed by third parties only if this is known to the Bank).

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## **9. Product governance**

Distributors of financial market instruments must have an appropriate product governance process in place which is designed to ensure that the products and services offered are compatible with the needs, characteristics and objectives of the target market. Where orders are placed on a non-advisory basis, we will only review the target market with reference to the target market criteria for the client category concerned and, if required by law, in terms of relevant knowledge and experience.