

DISCLAIMER

THIS TEXT IS AN UNOFFICIAL TRANSLATION AND MAY NOT BE USED AS A BASIS FOR SOLVING ANY DISPUTE

06.2018

Provisions that may apply to credit institutions governed by the law of another Member State of the European Economic Area operating in Belgium under the freedom to provide services

Listed below is a series of legal and regulatory provisions with a bearing on economic and financial matters that may be relevant to the activities of credit institutions governed by the law of another Member State of the European Economic Area (EEA) operating in Belgium under the freedom to provide services, as they may constitute provisions protecting the general good within the meaning of Article 315 of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms. This list is not exhaustive and does not in any way detract from the obligation, when carrying on activities in Belgium, to comply with the provisions of Belgian law that are not mentioned below (e.g. provisions under civil law, commercial law, criminal law, tax law or the privacy legislation). The Belgian legislation can be consulted on <http://www.ejustice.just.fgov.be/law/law.htm>. The NBB and the FSMA cannot be held liable for any inaccuracies in or incompleteness of this list or for the use thereof. This list does not confer any rights.

A. Specific provisions applicable to credit institutions governed by the law of another EEA Member State operating in Belgium under the freedom to provide services:

- Articles 5, third paragraph, and 314 of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms.

B. Other provisions relating to the activities of credit institutions governed by the law of another EEA Member State operating in Belgium under the freedom to provide services:

- Royal Decree No 41 of 15 December 1934 protecting savings by regulating instalment sales of premium bonds;
- Royal Decree No 71 of 30 November 1939 on the peddling of securities and door-to-door sales of securities, merchandise and goods;
- Law of 2 January 1991 on the national debt securities market and monetary policy instruments, and its implementing decrees;
- Law of 22 July 1991 on commercial paper and certificates of deposit, and its implementing decrees;
- Law of 2 August 2002 on the supervision of the financial sector and on financial services, and its implementing decrees as well as the regulations adopted for its implementation, such as in particular:
 - Regulation of 3 April 2014 of the Financial Services and Markets Authority on the ban on the distribution of certain financial products to retail clients, approved by Royal Decree of 24 April 2014;

- Royal Decree of 25 April 2014 imposing certain information obligations when distributing financial products to retail clients;
 - Regulation of 26 May 2016 of the Financial Services and Markets Authority regulating the distribution of certain financial derivatives to retail clients, approved by Royal Decree of 21 July 2016;
- Articles 49 and 65/2 of the Programme Law (I) of 24 December 2002 (Supplementary pensions for the self-employed);
- Articles 27, 32 and 63/4 of the Law of 28 April 2003 on supplementary pensions and on the tax regime applicable to such pensions and to certain additional social security benefits, and its implementing decrees;
- Law of 14 December 2005 abolishing the bearer securities, and its implementing decrees;
- Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments, and its implementing decrees;
- Law of 16 June 2006 on public offers of investment instruments and on the admission of investment instruments to trading on regulated markets, and its implementing decrees;
- Law of 1 April 2007 on takeover bids, and its implementing decrees, in particular Article 40;
- Law of 2 May 2007 on disclosure of major holdings in issuers whose shares are admitted to trading on a regulated market and laying down miscellaneous provisions, and its implementing decrees;
- Title II, Chapter V “Dormant accounts, safes and insurance contracts” of the Law of 24 July 2008 containing various provisions (I);
- Law of 17 July 2013 on protection against counterfeiting and the preservation of the quality of cash in circulation;
- Law of 21 December 2013 on various provisions concerning the financing of small and medium-sized enterprises, and its implementing decrees;
- Law of 25 April 2014 on the legal status and supervision of independent financial planners and on the provision of financial planning advice by regulated firms, amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and on financial services;
- Articles 9, 102 and 103 of the Law of 25 October 2016 on access to the activity of investment service provider and on the legal status and supervision of portfolio management and investment advice companies, and its implementing decrees, as well as the implementing decrees of the Law of 4 December 1990 on financial transactions and financial markets and the Law of 6 April 1995 on the legal status and supervision of investment firms which remain in force until their repeal, such as in particular Articles 14 and 15 of the Royal Decree of 27 December 1994 on bureaux de change and currency trading;
- Law of 18 December 2016 regulating the recognition and delineation of crowdfunding and containing various provisions on finance;
- Book III of the Law of 11 March 2018 on the legal status and supervision of payment institutions and electronic money institutions, access to the activity of payment service provider and the activity of issuing electronic money, and access to payment systems;
- Book VI "Market practices and consumer protection" of the Code of Economic Law, the specific definitions of Book VI contained in Book I of the Code of Economic Law

and the specific law enforcement provisions of Book VI contained in Book XV of the Code of Economic Law, and the implementing decrees of that Book, as well as of the Law of 14 July 1991 on trade practices and information and protection of consumers, and the Law of 6 April 2010 on market practices and consumer protection which remain in force until their repeal¹, such as in particular:

- Royal Decree of 23 March 1995 concerning the price indication for homogeneous financial services;
- Royal Decree of 23 March 2014 on taking special measures and on derogations from certain provisions of Book VI of the Code of Economic Law for certain categories of financial services;
- Book VII "Payment and credit services" of the Code of Economic Law, the specific definitions of Book VII contained in Book I of the Code of Economic Law and the specific law enforcement provisions of Book VII contained in Book XV of the Code of Economic Law, and the implementing decrees of that Book, as well as the implementing decrees of the Law of 12 June 1991 on consumer credit, the Law of 4 August 1922 on mortgage loan, and the Law of 10 August 2001 on the Central Individual Credit Register which remain in force until their repeal;
- Book XVI "Extrajudicial settlement of consumer disputes" of the Code of Economic Law, the specific definitions of Book XVI included in Book I of the Code of Economic Law, and the specific law enforcement provisions of Book XVI included in Book XV of the Code of Economic Law, and the implementing decrees of that Book.

¹ In addition to these common law rules on market practices and consumer protection the professional associations representing the banking sector have drawn up a Code of Conduct for advertising and providing information about savings deposits. The courts may consider compliance with this Code of Conduct a fair trading practice within the meaning of the Law. The Code of Conduct is available on the website of the Belgian Financial Sector Federation: Belgian Financial Sector Federation (<https://www.febelfin.be/en/publications/codes-conduct>)