

# SUMMARY OF THE BELGIUM RESCUE PLAN TO STABILISE THE FINANCIAL MARKETS

## 1. Prohibition on short selling

The Belgian Banking, Finance and Insurance Commission (BFIC), being the Belgian supervisor of the financial markets, issued a press release on 19 September 2008 regarding new rules on short selling to protect the integrity and the transparency of the financial markets. These measures were confirmed by Royal Decree of 23 September 2008 on certain measures that constitute market abuse (hereinafter "**the Royal Decree of 23 September 2008**").

Sales without complete coverage of shares issued by certain financial institutions and transactions in derivatives related to those issuers without complete coverage, are prohibited (Article 2, § 1 of the Royal Decree of 23 September 2008).

The prohibition applies to stock, any kind of derivative instruments (including futures) in the following financial

institutions: Dexia SA, Fortis NV/SA, KBC Groep NV, KBC Ancora CVA and ING Groep NV (see point 7 of the BFIC's Q&A, available on its website at <http://www.cbfa.be/eng/fm/mm/faq/faq1.asp>). However, exemptions apply to certain market makers or block trade counterparties.

Qualified intermediaries must take reasonable measures to ascertain that their clients have appropriate coverage for their proposed transactions (Article 2, § 1 of the Royal Decree of 23 September 2008).

Further, any holder of a net economic short position of more than 0.25% at the end of a trading day in shares issued by the abovementioned financial institutions must disclose this position to the market and the BFIC at the latest at the end of the following trading day. Any decrease below this threshold of 0.25% must also be

disclosed (Article 3 of the Royal Decree of 23 September 2008).

Disclosure to the market must be made through an internationally distributed press release. As for the notification to the BFIC, market participants may report to the BFIC either by e-mail or fax (see point 17 of the BFIC's Q&A available on its website).

The Royal Decree entered into force on 22 September 2008, and remains valid for three months, unless decided otherwise by the Minister of Finance (Article 4 of the Royal Decree of 23 September 2008).

## **2. Extension of the Protection Fund**

Every client of a defaulting institution has an unconditional right to receive compensation from the Protection Fund for cash deposits and financial

instruments (Article 7 of the Communication issued by the Protection Fund on the protection measures for cash deposits and financial instruments).

The rules governing how the Protection Fund operates as well as the financing of the cost of any loss, are established in a Protocol concluded on 12 February 1999 between the Protection Fund and the participating financial institutions.

As communicated in a press release of 10 October 2008 by the Ministry of Finance, the Belgian government decided to increase the level of protection provided by the Protection Fund from 20,000.00 EUR to 100,000.00 EUR.

Further, as confirmed in this press release, the Belgian government decided to extend the protection from credit institutions and investment firms to other institutions that are active in the financial sector, such as insurance companies, upon their request, for products that are similar to cash deposits with credit institutions, such as "branch 21" insurance products.

The Royal Decree setting forth these new rules was approved by the Board of Ministers on 23 October 2008, and, once approved by the King, its formal publication in the Belgian Official Journal is expected soon.

## **3. Temporary guarantee plan for financial institutions**

Considering the turmoil on the financial markets and the difficulties that financial institutions are experiencing to obtain refinancing, the Belgian government set up a temporary guarantee plan to facilitate the refinancing of credit institutions or financial holdings under Belgian law on the interbank market or

with institutional counterparties.

The details of this guarantee plan are laid down in the Royal Decree of 16 October 2008 implementing Article 117bis of the Law of 2 August 2002 on the supervision on the financial sector and financial services (hereinafter "**the Royal Decree of 16 October 2008**").

Pursuant to Article 2 and 3 of the Royal Decree 16 October 2008, the Belgian State will guarantee the obligations entered into by credit institutions and financial holdings, provided they meet the following conditions, among others:

- the counterparty is recognized by the Minister of Finance;
- the guaranteed obligations were entered into or renewed between 9 October 2008 and 31 October 2009;
- the guaranteed obligations end at the latest on 31 October 2011;
- the financial institution has take all useful measures to support its financial situation, its solvency and its liquidity position, or will take these measures;
- the Belgian economy and the protection of all depositaries concerned justify the application of the guarantee plan.

The Ministry of Finance may however stipulate additional conditions and modalities with respect to the guarantee plan (Article 4 of the Royal Decree of 16 October 2008).

#### 4. Possible future measures

In his state of the union speech before the Federal Parliament on 14 October 2008, the Prime Minister, Mr. Yves Leterme, announced a number of measures to reform the financial markets and their regulation and to restore the confidence of investors.

These measures include:

- a higher level of transparency with respect to manager's fees in financial institutions, including the "golden parachute" arrangements;
- a review of the supervision on the financial sector and the financial services, which is currently being carried out by the BFIC and the Belgian National Bank (BNB), and an enforcement of the internal control mechanisms;
- an adequate level of information and protection of depositors with respect to financial products and insurance products.

We are currently in the course of investigating in more detail the above measures taken under Belgian law.

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