

MEMORANDUM OF UNDERSTANDING BETWEEN THE COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER (CSSF), THE BANQUE CENTRALE DU LUXEMBOURG (BCL) AND THE BANK OF ENGLAND (BoE) ON THE CO-OPERATION & COMMUNICATION FRAMEWORK REGARDING THE CSDR-RELATED SUPERVISION OF CLEARSTREAM BANKINGS.A. (CBL)

INTRODUCTION

1.1 Clearstream Banking S.A.

Clearstream Banking S.A. (CBL) is an International Central Securities Depository (ICSD) established under Luxembourg law that settles securities transactions in multiple currencies. It is owned by Clearstream Holding A.G., which is also the parent company of Clearstream Banking A.G. Clearstream Holding A.G. is itself owned by Deutsche Borse A.G.

In addition to securities settlement, CBL provides issuance, custody, corporate action and collateral management services.

1.2 Requirement for co-operation and communication

GBP is one of the major currencies settled in the system operated by CBL.

In addition, UK-owned banks and other UK-based financial institutions and market infrastructures are among CBL's participants. Prudent risk management by CBL is consequently of relevance to limiting systemic risk to the UK financial system. Similarly, the financial soundness of UK-based institutions that hold accounts with or for CBL is relevant as well. Any strategic developments or innovations in the UK financial sector may also have an impact on CBL.

The CPMI-IOSCO Principles for Financial Market Infrastructures (PFMIs), and more specifically Responsibility E, establish a requirement for cooperation among authorities, as appropriate, in promoting the safety and efficiency of FMIs. Cooperative arrangements should take into consideration the systemic importance of the FMI to their respective jurisdictions.

A Memorandum of Understanding (hereinafter, the "MoU") between the CSSF, the BCL and the BoE (hereinafter each referred to as "Authority" or "Signatory" or together as "Authorities" or "Signatories") is warranted to codify how this cooperation should operate in respect of the supervision of CBL under the CSDR, as defined below, recognising the shared interests described above.

Article 25 of the UK CSDR¹ requires that the BoE must establish suitable co-operation arrangements with a non-UK CSD's home authority before the BoE can recognise that non-UK CSD. The Authorities intend the MoU to satisfy that requirement in respect of CBL. The MoU should facilitate CSDR-related supervision of CBL and provide a mechanism whereby the responsibilities of the Authorities can be fulfilled efficiently and effectively, through information exchanges and regular dialogue between the Authorities as specified under the terms of this MoU and taking into account the respective competences of each Authority.

In light of the above, this MoU sets out practical modalities for the cooperation between the Authorities in respect of CBL in the context of the CSDR. It does not concern and shall not affect in any way the direct supervision of CBL undertaken by the CSSF or the oversight of the securities settlement system (SSS) undertaken by the BCL, which remain subject to the Luxembourg legal and regulatory requirements. Accordingly, this MoU does not limit or condition the discretion and autonomy of the CSSF and the BCL in any way in the discharge of their regulatory responsibilities.

II SIGNATORIES

This MoU is concluded between the following Signatories, in their capacities described at paragraphs 3.1, 3.2 and 3.3:

1. the Commission de Surveillance du Secteur Financier (CSSF)
2. the Banque centrale du Luxembourg (BCL)
3. the Bank of England (BoE)

III LEGAL BASIS FOR THE INVOLVEMENT OF THE SIGNATORIES

The legal basis for the involvement of the Signatories, in their capacities described at paragraphs 3.1, 3.2 and 3.3, in this MoU is as follows:

¹ Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014, as amended and retained in UK law.

3.1. CSSF

The CSSF is the national competent authority under the "Central Securities Depository Regulation"²(the "CSDR"). The CSSF is also responsible for the direct supervision of less significant credit institutions. In addition, the CSSF is the Luxembourg resolution authority.

As stated by article 3-2 of the law of 23 December 1998 establishing CSSF, in exercising its tasks, the CSSF shall duly consider the potential impact of its decisions on the stability of the financial system at national, Community and international level and, in particular, in emergency situations, based on the information available at the relevant time.

The article also states that in the light of its supervisory mission and in compliance with the legal competences of the parties, the CSSF shall cooperate with the government, the BCL and with the other national, Community and international supervisory authorities in order to contribute to ensuring the financial stability, notably within the authorities established for that purpose at these different levels.

3.2 BCL

Pursuant to Article 127(2) fourth indent of the Treaty on the functioning of the European Union (TFEU) and Articles 3 and 22 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the BCL has a statutory responsibility as a central bank of the Eurosystem to promote the safety and efficiency of payment, clearing and settlement systems under its oversight mandate. On the national level, the competence of the BCL in the field of oversight is based on Articles 2(5), 2(6) and 25 of the Luxembourg law of 23 December 1998 concerning the monetary status and the BCL, as amended (the "BCL Organic Law"). In this capacity, the BCL is in charge of the oversight of payment systems, SSS and payment instruments.

Moreover, pursuant to Articles 2(4) of the BCL Organic Law, the BCL is further responsible for supervising the general liquidity situation on the markets as well as evaluating market operators for this purpose.

Articles 2(4), 2(5) and 2(6) and 26 of the BCL Organic Law provide a framework for coordination and cooperation with the CSSF and central banks at international level for the performance of these tasks, including with the aim to contribute to ensure financial stability, in compliance with the respective legal competences.

² Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 and its implementation by way of the Luxembourg law of 6 June 2018.

3.3. BoE

The BoE is responsible for systemically important market infrastructure (Le payment and settlement systems and clearing houses), as well as its monetary authority and financial stability functions as a central bank and as the UK's resolution authority. One of the BoE's statutory sub-committees, the Financial Policy Committee, is charged with contributing to the BoE's financial stability objective.

Following the UK's departure from the EU, the BoE also assumed responsibilities under the UK CSDR for CBL as an incoming CSD.

IV PURPOSE AND LEGAL NATURE OF THE MEMORANDUM

This MoU reflects the common understanding between the Signatories as to the specific arrangements to be established for organising information sharing, co-operation and communication between the CSSF, the BCL and the BoE with regard to CBL.

This MoU does not constitute a contract or agreement between the Signatories. It does not give rise to any claim or right of whatever nature to any Signatory or any third party. Furthermore, this MoU is without prejudice to any laws, regulatory models or requirements in force in or applying to the UK or Luxembourg.

Each Signatory remains solely and fully responsible for the proper execution of its respective competencies, tasks and duties under its applicable EU and/or national law. The CSSF, the BCL and the BoE recognise that the interaction contemplated in this MoU must be compliant with the laws which establish the CSSF, the BCL and the BoE as authorities and which govern their powers, capacities and responsibilities.

The cooperation and information under this MoU should be interpreted and implemented in a manner that is permitted by, and consistent with, current and future laws and other legal or regulatory requirements applicable to each Authority and to CBL.

The cooperation under this MOU takes place on a best effort basis. The duties under this MOU are not enforceable and non-observation of such duties cannot lead to any compensation or liability for any damage, expense or loss in connection with this MoU.

This MoU is without prejudice to other cooperation arrangements that each Authority might conclude and can be supplemented with specific memoranda of understanding between some or all of the same Authorities agreed upon for the purpose of cooperation.

V MODALITIES OF CO-OPERATION

The CSSF, in cooperation with the BCL, and the BoE agree to cooperate closely on all matters of mutual interest concerning the CSDR-related supervision of CBL and to share information relevant for the conduct of their respective responsibilities, subject to the confidentiality arrangements described in Section VI below.

For the purpose of this MOU, the CSSF will be the primary point of contact with CBL on all matters, except by prior agreement between the CSSF and the BoE³.

5.1 CPMI-IOSCO

The CSSF, in cooperation with the BCL, will present to the BoE the outcome of the joint BCL - CSSF periodic CPMI-IOSCO assessment of CBL against the PFMLs and the results of any other material risk assessments undertaken in this context.

When assessing CBL's payment and settlement arrangements in GBP, and in particular its related liquidity risk management procedures in GBP, the CSSF, as authority with primary responsibility with respect to CBL, in cooperation with the BCL, will consider the views of the BoE. If the latter is required under its responsibilities to conduct its own assessment of these arrangements and procedures, it will consider the views of the CSSF as authority with primary responsibility, in cooperation with the BCL. Management of UK financial stability risks posed by CBL will be of particular focus in the cooperation arrangement.

5.2 Material changes

To the fullest extent practicable, the CSSF, in cooperation with the BCL, will notify the BoE in advance of any action it proposes to take in relation to CBL that may have a material effect on the stability of the UK financial system.

Additionally, the CSSF, in cooperation with the BCL, will update the BoE on:

- Any material event that could adversely impact the financial or operational stability of CBL;

³ This provision is without prejudice to direct contact between the BoE's operational areas and CBL, where the former/latter is a customer of the latter/former.

- Any material change in the legal, regulatory or supervisory arrangements affecting the home authority supervision of CBL (including in relation to the CSDR banking-type ancillary services provided by CBL);
- Any major change in the corporate structure of CBL;
- Any major reorganisation within CBL; and
- Any major change in the GBP settlement arrangements of CBL.

Similarly, to the fullest extent practicable, the BoE will notify the CSSF and the BCL in advance of any action it proposes to take, in its capacity of overseer and supervisor of CBL as an incoming CSD, that may have a material effect on CBL.

If it is not practicable for the CSSF / BCL / BoE to notify the BoE / BCL / CSSF before taking action, notification shall be made as soon as practicable thereafter.

5.3 Reporting

The CSSF, in cooperation with the BCL, and the BoE agree to share information where relevant for the conduct of their respective responsibilities and subject to the confidentiality arrangements described in Section VI of the MoU.

The CSSF shall share its CSDR-related supervisory activities plan with the BoE and shall take into consideration (but is not obliged to adopt) the BoE's interests and concerns in the design and scheduling of its supervisory plan when assessing CBL's payment and settlement arrangements in GBP, and in particular its related liquidity risk management procedures in GBP. In addition, the CSSF shall also inform the BoE of its CSDR related supervisory strategy and priorities in respect of CBL at least annually.

The CSSF, in cooperation with the BCL, will share with the BoE:

- All review and evaluation / assessment outcomes issued by the CSSF in respect of CBL, pursuant to the CSDR under Article 22 (review and evaluation) and Article 60 (supervision of designated credit institutions and CSDs authorised to provide banking-type ancillary services); and
- Material CSDR related decisions issued by the CSSF and remedial actions, including formal enforcement cases, in respect of CBL.

In addition, upon request from the SoE (and in fulfilment of Article 25(7) of UK CSDR), the CSSF will:

- a. Provide data on CSL's activities in the United Kingdom, including for the purpose of collecting statistics; and
- b. Inform the SoE of the identity of the issuers and participants in the securities settlement systems operated by CSL which provides services in the United Kingdom and any other relevant information concerning CBL's activities in the United Kingdom'.

The SoE / the CSSF may request additional information from the CSSF/ the SoE in respect of CSL where relevant for the conduct of their respective responsibilities. For the avoidance of doubt, where the SoE / CSSF requests information about CSL and the authority receiving the request (the SoE / CSSF, as applicable) is not in possession of that information, the receiving authority will follow up with CBL to obtain that information. The CSSF will act in cooperation with the SCL as appropriate.

5.4 Crisis management

To the fullest extent practicable, the CSSF, in cooperation with the BCL, and BoE agree to share information, consult and co-operate as appropriate during a financial or operational crisis impacting CSL or its GSP settlement arrangements. The specific role to be undertaken by the SoE in such circumstances will be further elaborated in consultation between the CSSF, the BCL and the SoE depending on the specific situation.

The CSSF, SCL and SoE agree to establish and maintain a crisis contact list. This list will be reviewed and updated when needed.

The CSSF, in cooperation with the SCL, shall be responsible for all communication with CSL during a crisis and agrees to transmit relevant information for crisis management purposes to SoE as promptly as practicable.⁴

In addition, and to the fullest extent practicable, CSSF, in cooperation with the SCL, agrees to share information, consult and co-operate with SoE, on the initiative of the latter, as appropriate in the event that any of the large UK-based institutions and / or any systemically important UK-based financial market infrastructure encounters significant financial distress or suffers a major operational incident. BoE also agrees to transmit relevant information in relation to aforementioned institutions for crisis management purposes to the other Authorities, as promptly as practicable.

⁴ Same as footnote 3.

5.5. Restructuring and wind-down plans

Restructuring and wind-down plans (CSDR Art. 47(2)(b)) are among the topics of mutual interest between the BoE and the CSSF to exchange information on.

5.6 Meetings

Representatives of the CSSF, BCL and the BoE should expect to meet at least twice per year, to the extent necessary, at the appropriate level, to discuss issues of common interest. Such meetings may be conducted over conference calls or on a face-to-face basis, as judged appropriate by the Authorities.

Depending on the agenda topics, and the location of the meeting, CBL will be invited to attend these meetings.

5.7 Supervisory Reviews

The CSSF should invite the BoE to participate in a supervisory review or assessment of CBL in principle once a year and in accordance with the CSDR. The BoE shall discuss and reach an understanding with the CSSF, as well as, for matters directly concerning liquidity, the BCL, on the type of review that, based on CSSF's supervisory work related to CSDR, it wishes to participate in and on terms of the BoE's participation, in particular with regard to the roles and responsibilities of each Authority, the intended timeframe for, the scope and purpose of, and the format and logistics of, such participation. The terms of participation may vary on a case-by-case basis.

The BoE's participation and all work contributed will be subject to the engagement rules of the CSSF and, for matters directly concerning liquidity, of the BCL, as well as compliance with laws and regulations applicable in Luxembourg.

VI CONFIDENTIALITY AND ONWARD SHARING

1. Except as provided for in this MoU or pursuant to a legally enforceable demand, each Authority will keep confidential information shared under this MoU, requests made under this MoU, the contents of such requests, and any other matters arising under this MoU. Information shall be subject to the respective provisions of confidentiality and professional secrecy of the Signatories, as they are applicable to them. The terms of this MoU are not confidential. Any information an Authority receives under this MoU may only be used for the purpose for which it was communicated. Each Authority confirms that it is able to ensure that such information will not be used for any other purpose (except

for specific situations as discussed hereafter). Each of the Signatories grant reciprocal information rights to each other.

2. The BoE may use information it receives for the purposes of its 'statutory tasks' related to the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems, and the safeguarding of stability of the UK financial system. It may share any such information that is confidential with other parts of the BoE including the Prudential Regulation Authority (PRA)⁵, or the Financial Conduct Authority (FCA)⁶, provided that such disclosure is made for the purposes of statutory tasks of the BoE and on a need to know basis. The receiving party shall only use the information in relation to the functions as listed above. In addition, the BoE will ensure that the received information will not be shared further with any other party.

3. Similarly, the CSSF and the BCL, based on their respective competences, may use information they receive under this MoU for the purposes of their 'statutory tasks' including those related to the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems, and the safeguarding of stability of the Luxembourg financial system. They may share any such information that is confidential with other parts of the CSSF / BCL provided that such disclosure is made for the purposes of statutory tasks of the CSSF / BCL and on a need to know basis. Also, while the receiving party shall only use the information in relation to the functions as listed above, the CSSF / BCL will in addition ensure that the received information will not be shared further with any other party.

4. To the extent legally permissible, the requesting Authority will notify the requested Authority of any legally enforceable demand from a third party for non-public information that has been furnished under this MoU. Prior to compliance with a third party demand, the requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.

5. In certain circumstances, and as required by law, it may become necessary for the requesting authority to share information obtained under this MoU with an onward receiving authority. In these circumstances and to the extent permitted by law:

- a) The requesting Authority will indicate such disclosure as well as its scope and purpose in the request for assistance;

⁵ The PRA (part of the BoE) is responsible for prudential supervision of deposit takers, insurers and significant investment firms.

⁶ The FCA is responsible for regulating conduct in retail and wholesale markets (including both exchange operated markets and over-the-counter dealing), supervising the trading infrastructure that supports those markets, and the prudential regulation of firms not prudentially regulated by the PRA.

b) Prior to passing on the information, the requested Authority will receive adequate assurances concerning the onward receiving authority's use and confidential treatment of the information, including, as necessary, assurances that:

a. The onward receiving authority has confirmed that it requires the information for the purpose of enabling it to fulfil its responsibilities and mandates; and

b. The information will not be shared by the onward receiving authority with other parties without getting the prior written consent of the requested Authority.

c) If the requesting Authority intends to share confidential information with an onward receiving authority in accordance with paragraph (3) of this article for any purpose other than that stated in the initial request for assistance, it must obtain the prior consent of the requested Authority.

6. Except as provided in paragraphs (2), (3) and (4) and (5) of this Article, the requesting Authority must obtain the prior consent of the requested Authority before disclosing non-public information received under this MoU. During an emergency situation, consent may be obtained in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification. If consent is not obtained from the requested Authority, the Authorities will discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the requesting Authority might be allowed.

7. The Authorities acknowledge that the sharing or disclosure of non-public information, including but not limited to deliberative and consultative materials, pursuant to the terms of this MoU, will not constitute a waiver of privilege or confidentiality of such information.

VII GENERAL PROVISIONS

7.1 Amendments

This MoU may be amended by the mutual consent of the Signatories, as they deem necessary.

7.2 Entry into force / termination

This MoU will come into force at the date of signatures shown below. It remains in force until terminated in writing by the Signatories, giving 30 days advance written notice to each of the other Signatories. Any individual Signatory has the right to terminate following the same procedure. In the event of termination of this MoU, information obtained under this MoU will continue to be treated in the manner described under Section VI.

7.3 Disclosure

This Mou will be disclosed to CBL. The Signatories may also disclose this MoU to other public authorities (including supranational institutions) or the public in general to the extent permitted by applicable law.

7.4 Review of the MoU

The CSSF, BCL and the BoE will regularly review the implementation of this MoU in order to monitor the appropriateness and effectiveness of the present arrangements over time.

The Authorities may enter into consultations to amend this MoU upon the request of any Signatory of this Mou