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CORONAVIRUS: DISTRIBUTION POLICIES OF CREDIT INSTITUTIONS

The CSSF updated its FAQ on Covid-19 to clarify additional measures in light of the coronavirus pandemic, mainly as regards the dividend distribution policies of credit institutions.

Concerned entities: Credit institutions

This briefing speaks as of 3 April 2020.

The CSSF has clarified its policy as regards banks' distribution policies aimed at remunerating shareholders within its revised FAQ on Covid-19. The Luxembourg regulator intends to comply with the recent European Central Bank's recommendation on dividend distributions during the Covid-19 pandemic as well as the European Banking Authority's statement on dividends distribution, share buybacks and variable remuneration and provided *inter alia* the following additional guidance on the actions to be taken in this context:

- management bodies of all Luxembourg credit institutions should refrain from taking decisions that could result in distributing (accumulated) profits whenever such decisions would constrain their bank's capacity to meet the Covid-19 induced needs for liquidity and credit of the customers in the markets they serve (e.g. paying out or irrevocably committing to pay out dividends for the financial years 2019 and 2020 or buying-back shares);
- banks that have already submitted dividend distribution proposals for their upcoming general shareholders' meeting are expected to amend such proposals in line with the ECB's recommendation. However, the recommendation does not retroactively invalidate dividends already paid out for the financial year 2019;
- decisions to distribute profits are compliant with the CSSF policy as long as they foresee the deferral of such distributions to the period beyond 1 October 2020 (this deadline could be extended if required by the economic situation); and
- management bodies of Luxembourg banking subsidiaries are expected to engage with their shareholders so as to ensure that their dividend policy is compatible with the objectives framed in the EBA's statement (i.e. ensuring efficient and prudent allocation of capital within banking groups and that capital distributions within banking groups serve the need to support the local and the broader European economies and ensure the proper functioning of the Single Market).

The CSSF has further specified that banks that encounter difficulties to comply with the abovementioned guidance should without delay explain the underlying reasons to their competent authority.

CONTACTS

Steve Jacoby
Partner

T +352 48 50 50 219
E steve.jacoby
@cliffordchance.com

Christian Kremer
Partner

T +352 48 50 50 201
E christian.kremer
@cliffordchance.com

Marc Mehlen
Partner

T +352 48 50 50 305
E marc.mehlen
@cliffordchance.com

Udo Prinz
Counsel

T +352 48 50 50 232
E udo.prinz
@cliffordchance.com

Boika Deleva
Associate

T +352 48 50 50 260
E boika.deleva
@cliffordchance.com

Ewa Baginska
Associate

T +352 48 50 50 490
E ewa.baginska
@cliffordchance.com

www.cliffordchance.com

Clifford Chance, 10 boulevard G.D. Charlotte, B.P. 1147, L-1011 Luxembourg, Grand-Duché de Luxembourg

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