



MIFID II INFORMATION BROCHURE  
FOR BANQUE HAVILLAND (LIECHTENSTEIN) LTD.  
JANUARY 2018

## **INTRODUCTION**

Since November 2007, investment business in Europe has been governed by the EU Markets in Financial Instruments Directive ("**MiFID I Directive**"). Due to changes in the structure of the market, innovations in financial markets and the consequences of the financial crisis, at the beginning of 2014 the European Union ("**EU**") revised the MiFID I Directive. The new Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 ("**MiFID II Directive**") is intended to increase transparency in the markets and to enhance the efficiency and integrity of the financial markets. Liechtenstein, as a member state of the European Economic Area (EEA), is obliged to transpose the EU requirements into national law. This will mainly be done by amending the Liechtenstein Banking Act and associated Banking Ordinance as well as the Asset Management Act.

## **PURPOSE AND CONTENT OF THIS BROCHURE**

The Banking Act and the associated Banking Ordinance of the Principality of Liechtenstein require that banks providing investment services and/or ancillary services furnish their clients with detailed information about new rules applying to the services and products they offer. This brochure is intended to give you an overview of the Bank and its services in connection with the performance of investment services. The core of the brochure is the information relating to client classification and to the investment services and financial instruments offered by the Bank.

The brochure does not claim to cover all aspects of the investment business in a comprehensive manner. Where necessary, the brochure refers to additional materials that the Bank has already given you or that may be obtained free of charge from the Bank. The table of contents will help you find your way quickly round the brochure. Please study this brochure carefully and do not hesitate to ask us if you have any questions.

The brochure uses numerous technical terms and expressions. It relies on the terminology already used in the legislation. Where it appears necessary, we have explained terms in footnotes or referred to the relevant legal foundations.

We reserve the right to inform you only of significant changes to the content of this brochure.

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# 1. GENERAL INFORMATION

## 1.1. INFORMATION ON THE BANK

Banque Havilland (Liechtenstein) AG, hereinafter the “**Bank**”, is domiciled at the following address:

Austrasse 61, 9490 Vaduz, Liechtenstein.

It is registered as a bank in the legal form of a company limited by shares in the Commercial Registry of the Principality of Liechtenstein. For its activities as a bank, it holds a license issued by the Liechtenstein Financial Market Authority (FMA), Landstrasse 109, P.O. Box 279, FL-9490 Vaduz, and is subject to FMA supervision.

The Bank is a member of the Liechtenstein Bankers Association and, for the purposes of protecting client assets, has joined the Deposit Guarantee and Investor Protection Foundation of the Liechtenstein Bankers Association. The scope of the liabilities protected by the Deposit Guarantee and Investor Protection Foundation is set out in a fact sheet published by the Liechtenstein Bankers Association, which may be obtained from the Bank or directly from the Liechtenstein Bankers Association.

Additional information on the organisation and structure of the Bank can be found in the Annual Report, which the Bank will be happy to provide to you upon request.

## 1.2. LANGUAGE AND MEANS OF COMMUNICATION

Any communication between you and the Bank will be made in the language chosen by the parties at the time of the entry into the business relationship and in the absence of such choice, in German or English, at the discretion of the Bank.

The Bank will usually communicate with you by letter or via the online-banking platform (Client-Web) provided by the Bank.

The Bank reserves the right not to execute instructions given otherwise than in writing or via Client-Web, in particular if it considers that they do not appear to be sufficiently authentic.

Before carrying instructions out, the Bank reserves the right to require the Client to confirm by letter or by telecopy on the same day as any instructions given orally, by electronic means including emails or by telephone, data communication or by any other means of communication.

## 2. CONTRACTUAL TERMS AND TERMS OF BUSINESS

The rights and duties applicable between the Bank and you in connection with the performance of investment services and/or ancillary services are governed by contractual terms and terms of business. In particular, the General Terms and Conditions (GTC) of the Bank apply in this regard. The present brochure serves as supplementary information.

## 3. CLIENT CLASSIFICATION

### 3.1. CLASSIFICATION BY THE BANK

Clients are informed of their classification as a “non-professional client”, a “professional client” or an “eligible counterparty”. However, existing clients are only notified of a reclassification.

The banks are required to classify their clients in accordance with precisely defined criteria in one of the aforementioned client categories. If it has not been already done so, the Bank will inform you of your client classification.

The classification serves to ensure treatment of our clients in accordance with their knowledge and experience of transactions in financial instruments and the type, frequency and scope of such transactions.

#### 3.1.1. Non-professional client

The Bank considers you to be a “non-professional client” (sometimes also termed a “**retail client**” or “**private investor**”) if you cannot be classified either as a “professional client” or as an “eligible counterparty”. This classification entitles you to the highest legally provided level of protection.

#### 3.1.2. Professional client

In order for you or your company to be classified as a “professional client”, the criteria set out in point 2 of Annex 1 of the Banking Act (Annex II of MiFID II) must be met. A lower level of protection applies to a “professional client” than to a “non-professional client”. In contrast to “non-professional clients”, the Bank assumes in the case of “professional clients” that the acting persons have sufficient experience, knowledge and expertise to make investment decisions and to adequately assess the associated risks.

### **3.1.3. Eligible counterparty**

According to the Liechtenstein Banking Act, only supervised legal persons, large companies, governments, local authorities, public bodies that deal with public debt, central banks and international or supranational organisations may be considered eligible counterparties. They are entitled to the lowest level of protection. With this category of clients, too, the Bank assumes that the acting persons have sufficient experience, knowledge and expertise to make investment decisions and to adequately assess the associated risks. In addition, the Bank does not provide investment advice and asset management services to such clients. If a client classified as an eligible counterparty nevertheless wants to take advantage of such services, the Bank will treat the client in the same way as a professional client.

### **3.2. RECLASSIFICATION**

At any time, you have the option of agreeing on a different classification with the Bank in writing. Please note that a change of classification entails a change of the legally provided level of protection applicable to you. Accordingly, we draw your attention to the fact that the Bank can only agree to such a reclassification if specific conditions precisely described in Annex 7.2 of the Liechtenstein Banking Ordinance (Annex II of MiFID II) are met. For instance, only clients that meet at least two of the following criteria may be reclassified from the status of “non-professional” to “professional client”:

- the client has carried out transactions, in significant size, on the relevant market at an average frequency of ten per quarter over the previous four quarters;
- the size of the client’s financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR 500,000;
- the client works or has worked in the financial sector for at least one year, which requires knowledge of the transactions or services envisaged.

To obtain a reclassification from a “non-professional client” to a “professional client”, you must submit a written application to the Bank. The Bank will be happy to assist you in this regard. Your relationship manager will be happy to advise you on the precise modalities and effects of a reclassification.

If the Bank should learn that you no longer meet the conditions for the client category in which you have been classified, it is required to undertake an adjustment of its own accord. The Bank will then inform you immediately. It is also incumbent upon you to inform the Bank if you no longer meet one of the conditions.

## 4. INFORMATION ON THE INVESTMENT SERVICES AND FINANCIAL INSTRUMENTS OFFERED BY THE BANK

### 4.1. FINANCIAL INSTRUMENTS

Trading in financial instruments<sup>1</sup> involves financial risks. Depending on the financial instrument, these risks may significantly differ. A basic distinction is drawn between “non-complex” and “complex” financial instruments. What types of financial instruments exist and what risks they are associated with is explained in more detail in the brochure “Risks in Securities Trading”.

### 4.2. INVESTMENT SERVICES AND ANCILLARY SERVICES

Investment services and ancillary services Wherever possible, the Bank performs all types of investment services and ancillary services<sup>2</sup> for you, in particular in connection with the buying and selling of financial instruments<sup>3</sup> and their safe custody. The Bank performs buying and selling transactions either on an execution-only basis or as a no-advice transaction or in the context of investment advice or asset management (also called “portfolio management”).

#### 4.2.1. Investment advice and asset management

At your request, the Bank performs investment advice or asset management services. “Investment advice” is considered to mean giving a personal recommendation to the client that relates to one or more financial instruments. The buying or selling decision remains with the client.

Unless expressly agreed otherwise in the bespoke agreement, the Bank provides the advisory service on a non-independent basis, meaning that the range of financial instruments that are assessed by the Bank when providing investment advice may be limited to financial instruments issued or provided by the Bank or other entities having close (legal or economic) links with the Bank or the Banque Havilland group.

If the client has been categorised as a retail client, the Bank provides the client with a regular assessment of the suitability of the financial instruments recommended.

<sup>1</sup> On the term “financial instrument”, see Annex 2, section C, of the Liechtenstein Banking Act.

<sup>2</sup> A detailed catalogue of investment services and ancillary services can be found in Annex 2, sections A and B, of the Banking Act.

<sup>3</sup> On the term “non-complex financial instrument”, see Annex 2, section B, of the Liechtenstein Banking Ordinance.

The Bank considers “asset management” to mean the management of a client’s individual financial instruments or portfolio on a client-by-client basis and in accordance with the investment strategy agreed between the client and the Bank. In the case of asset management, the client delegates the decision on the individual investments to be made to the Bank. The Bank only accepts an asset management mandate on the basis of a separate asset management agreement in writing. In the case of both investment advice and asset management, the Bank must by law obtain various items of information in advance if the Bank does not already have the information. Where relevant, this includes information on:

- your **knowledge and experience** in the investment business, including: information on the type of services, transactions and financial instruments with which you are familiar and the type, scope and frequency of the transactions in financial instruments you carry out, your educational experience and your profession or previous professional activities;
- your **investment goals**, including: information on the planned investment purpose, the investment time horizon, your risk appetite, risk profile and risk tolerance; and
- your **financial situation**, including: information on the origin and amount of regular income and regular liabilities, your total assets including liquid assets and real estate, and your ability to bear losses.

Only by obtaining this information is the Bank able to recommend suitable transactions in financial instruments to you or to perform such transactions in the context of asset management. The Bank considers only services and financial instruments to be suitable:

- that correspond to your investment goals and personal circumstances with respect to the required investment duration;
- the investment risks of which you can bear financially; and
- the risks of which you are able to understand on the basis of your knowledge and experience (suitability test).



Before the transaction is executed, the non-professional client, after being provided with investment advice, receives from the Bank a statement on suitability in a durable medium, in which the Bank specifies the advice provided and explains how the advice met the preferences, goals and other characteristics of the client. Where the agreement to buy or sell a financial instrument is concluded using a means of distance communication which prevents the prior delivery of the suitability statement, the Bank may provide you with the written statement on suitability in a durable medium immediately after you are bound by any agreement. This is possible provided the following conditions are met:

- a) you have consented to receiving the suitability statement without undue delay after the conclusion of the transaction; and
- b) the Bank has given you the option of delaying the transaction in order to receive the statement on suitability in advance.

If you have been classified as a “professional client”, the Bank assumes that you have the requisite knowledge and experience. If you are naturally regarded as a “professional client” (see Annex II, section 1, of the MiFID II Directive), the Bank also assumes in the context of investment advice that you are financially able to bear any risks associated with the transaction.

To assess the experience and knowledge of legal persons, the Bank looks at the experience and knowledge of the natural persons acting on behalf of the legal person vis-à-vis the Bank.

If a power of attorney exists, the Bank looks at the experience and knowledge of the person who acts vis-à-vis the Bank; for your protection, in cases of doubt the Bank looks at the person who has less knowledge and experience with respect to the risks associated with the transaction in question.

In its assessment, the Bank relies on the information you provide and assumes that such information is accurate. Should you fail to provide the Bank with the information it requests or if such information is insufficient, the Bank is prohibited by law from giving you recommendations. It is therefore in your own interests to provide the Bank with the required information.

#### **4.2.2. Execution-Only or no-advice transaction**

Buying or selling transactions that are not executed in the context of investment advice or asset management are executed as execution-only or no-advice transaction. In this case, the Bank must again by law obtain the aforementioned 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 (appropriateness test). However, your financial ability to bear the investment risks associated with the service or financial instrument is not verified. Similarly, no investment goal is defined.

If you have been classified as a “professional client” or as an “eligible counterparty”, the Bank assumes that you have sufficient knowledge and experience to adequately assess the associated risks.

In the case of legal persons or powers of attorney, the details in section 4.2.1 apply.

If, upon assessing appropriateness, the Bank concludes that the service or financial instrument is not appropriate for you, or if the Bank does not have all necessary information available to assess appropriateness, you will be warned accordingly. If the Bank is unable to reach you for the purposes of such a warning, whether because you have requested that the Bank does not contact you or because you cannot be reached at short notice, the Bank reserves the right, if in doubt, to refrain from executing the order for your protection<sup>4</sup>.

The Bank is not required to carry out the appropriateness test if the service is provided on the initiative of the client and if the transaction relates to investments in financial instruments that are qualified as “non-complex” such as.

- shares admitted to trading;
- bonds or other forms of securitised debt admitted to trading;
- money market instruments;
- UCITS<sup>5</sup> funds (but not AIFs<sup>6</sup> or structured UCITS);
- structured deposits;
- other non-complex financial instruments pursuant to Annex 7.4, para. III.2.1 of the Banking Ordinance.

<sup>4</sup> See the Bank’s General Terms and Conditions.

<sup>5</sup> Undertakings for Collective Investments in Transferable Securities.

<sup>6</sup> Alternative Investment Funds.

## **5. PRINCIPLES OF EXECUTING ORDERS**

The Bank performs all investment services and ancillary services in an honest, fair and professional manner and in the best interests of its clients. The Bank takes all measures that appear necessary in its estimation to achieve the best execution of client orders. In this regard, it takes adequate account of the various types of clients. The Bank has summarised the principles according to which it executes the orders of its clients in the Principles for Executing Orders in Financial Instruments.

## **6. COSTS AND ASSOCIATED CHARGES IN CONNECTION WITH INVESTMENT SERVICES AND ANCILLARY SERVICES**

Costs and associated charges in connection with investment services and ancillary services provided by the Bank are determined in accordance with the fee schedule as amended from time to time. The Bank will disclose to you the costs and associated charges for investment services and ancillary services and the costs and associated charges in connection with the design and administration of financial instruments. In this connection the Bank will also provide you with an illustration of the effect of the total costs on the return. The requirements relating to cost transparency apply in general to professional clients, too. If the Bank provides you with ex ante information on costs, this is an estimate. The actual costs incurred will be disclosed to you on an ex post basis and may differ from the ex ante estimate. In 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 prices (mean price for the day, stock exchange closing price) and different conversion rates and conversion times for foreign currencies. As a result, there may be discrepancies and calculation and rounding differences.

## 7. PRINCIPLES FOR DEALING WITH CONFLICTS OF INTEREST

The Bank has taken a range of measures to prevent potential conflicts in advance between your interests and the interests of the Bank, its employees or other clients. The Bank has summarised these measures for you in its Conflicts of Interest Policy.

## 8. CLIENT STATEMENT/REPORTS

Immediately upon executing a securities transaction on your behalf the Bank will send you a corresponding statement (transaction statement). Prior to execution of your order, the Bank will only inform you of the status of execution upon your express wish or if any difficulties arise with respect to execution of the order. On a periodic basis, as a rule as of the end of the year, the Bank will send you an itemisation of the financial instruments held on your behalf (custody account statement), unless such an itemisation has already been transmitted in another periodic statement. Upon special request, the Bank will issue additional statements to you. These provisions are subject to other special agreements concluded.

The Bank will provide you with regular client reports on the transactions effected, usually on a quarterly basis after the end of each calendar quarter. If you receive individual security notifications, a report will be provided once every twelve months at the beginning of the new year; if you have a credit-financed portfolio, you will receive a report each month after the end of the relevant month.

The reports must include an updated statement on how the portfolio management was in line with the preferences, goals and other characteristics of the client.

In the context of asset management, you will receive a loss threshold report from the Bank if the total value of your portfolio falls by 10%, and for every loss of value in 10% steps thereafter.

The same applies to an account for private clients that includes positions with credit-financed financial instruments or transactions involving contingent liabilities (if financed by third parties, only if that is known to the Bank).

## 9. PRODUCT GOVERNANCE

Those selling financial market instruments must have an appropriate product governance process in place in order to ensure that the products and services offered are compatible with the needs, characteristics and goals of the target market.

When offering or recommending clients a financial instrument, the bank is obliged to compare the target market of the financial instrument with the client. If the financial instrument is not suitable for the client, the Bank shall be entitled to refuse to execute the order. In the case of execution-only transactions, or no-advice transactions, the Bank shall be obliged to conduct only a limited target market comparison.

## 10. MiFIR - REPORTING OBLIGATIONS

The provisions of the Markets in Financial Instruments Regulation (MiFIR) establish an obligation to report specific transactions to the national supervisory authority. The obligation to report transactions applies to financial instruments that are themselves approved for trading, or in respect of their underlying asset, or are traded on a trading venue in the EU, or in respect of which an application has been made to admit these to trading. The report also encompasses client data, such as for example the buyer and the decision maker involved in the purchase. If you do not report a decision maker related to an order, the Bank assumes that the ordering party is the relevant decision maker. Legal entities are reported using their so-called LEI (legal entity identifier). If the client does not report the LEI to the Bank in good time before the transaction, the Bank shall be entitled to refuse to execute the transaction.

**BANQUE HAVILLAND (LIECHTENSTEIN) AG**

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Supervised by the Financial Conduct Authority and Prudential Regulation Authority in UK and regulated by the Commission de Surveillance du Secteur Financier in Luxembourg

**BANQUE HAVILLAND (MONACO) S.A.M.** Société Anonyme Monégasque au capital de 20.000.000 euros

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